



Synagogue School.  
Built by the Jews of Aleppo

Spencer, Jr.



5 Pl. 2. f.

THE  
A C C O U N T  
O F  
PYTHAGORAS'S SCHOOL



C A M B R I D G E;  
A S I N  
MR. G R O S E'S A N T I Q U I T I E S K  
O F  
E N G L A N D A N D W A L E S,  
A N D  
O T H E R N O T I C E S.

13







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**T**HE time of inscribing, to the warden and fellows of Merton-college in Oxford, the engraved plate of the plan and section of the lower and vaulted part of that their very ancient place in Cambridge, Merton-hall, or the School of Pythagoras, *as taken by Mr. Richard West \* in 1739, and published by Mr. Masters some years after, viz. in 1760,* gives therewith the time of the extracts from the appertaining evidences, made, as desired, for shewing whether they might not furnish some account to accompany the impression then from the plate to be taken off. They were such, and the same, as in the following notes and explanations they are here represented; and, though the first from any old writings the extractor was ever employed in, such in his then thought, as in his present apprehension of them; and such, moreover, as made it no sort of disappointment to him to see them judged incompetent on the occasion. But as no less disappointed, than surprised, at the no less extraordinary than unexpected use since made of them, on the later and succeeding occasion of the supplemental part of Mr. Grose's publication, more than twenty years after; that use, as of such authorities, and so imparted, is here more distinctly and particularly attended to. And this paper, as, not only in this first, but in the further and entire intention of it, a Merton one, and

\* IT is elsewhere said, Mr. *West* with Mr. *Essex* took the draught. The plate of this has been copied, and the other plates revived, for the present purpose.



for the college, will, it is hoped, be accepted accordingly, and with all the favour it may have in being so privately, as well as perfectly, devoted to it, and not as a publication.

MERTON-HALL, the building of the greatest antiquity in Cambridge, though much noticed, had been but little illustrated, when it became the subject of this very late account of it; and this, in the former part of it, being said to be deduced from the evidences in Merton-college; the primary intent of this paper was only to reduce the account so given, as the college-account, to those the evidences it was said to be deduced from.

IN so noticing, however, this account of the hall, as to make it in some sort introductory to something being said of the college it refers to; and therein of the rise and formation of colleges in the universities in the thirteenth century; enough was wished to be interposed of the mode and circumstances, the real and very informing mode and circumstances, of the foundation of this college, to SECURE a glimpse of it as from its founder, as begun, and formed, and left in being, by him; and in diversity to it, as now seen through the clouds and confusions, misinformations and mis-reckonings, variations and accommodations, of a more than five hundred years intervention.

FOR the honour indeed of such a founder, it could not but be so wished, that the college, as of his formation, might be seen as he formed it; and, as so seen, yield the fame that should arise to him from it, both as an original and an example; a very great original, and a very great example.

AND, after more of attention to it, as such, and as leading the universities into the present college-state of them, than may again perhaps at any rate befall it,——to contribute somewhat,  
beside



beside bare wishes, to its being more in such sort contemplated than it long has been, the grounds and evidences of this great person's proceeding in it are here, it is hoped, not altogether as ineffectually, as incidentally, disclosed.

IN any way, sort, or degree, may this disclosure, with every other which has yet been made of him, be to the forwarding and promoting of such a monument to his honour, as has been in the good and laudable intent of those preceding, true, and truly able friends of the college, Sir Henry Saville, Doctor Higges, Mr. Wood, Doctor Astrey, and Doctor Saunders; and such as, it is not without reason hoped, will be effected under the happy auspices of the present worthy warden. And, as thereto in the least subservient, may these private though printed and otherwise illustrated copies, in the restrained circulation of them, through the favourable allowance of the present and succeeding society, be considered, but as in the stead of less perspicuous written ones, for such of them as will be pleased to accept and honour them with their reception.

IT is not unknown, how much is wanted to make such communications at all regarded, even by persons of the same foundation, unless they have somewhat of the same inclination. And, if there be any of the society, who would look to what occurs of the college but for what precedes of the hall, they are requested to commence their view but in p. 32, and with all after-omission as they see proper.









[ 5 ]

THE  
A C C O U N T  
O F  
PYTHAGORAS'S SCHOOL  
IN CAMBRIDGE,  
A S I N  
MR. GROSE'S ANTIQUITIES.

[In this reprinting it with notes and notices as here added, and for private conviction only: to shew at once where OTHER buildings, as clearly SUCH in the evidences referred to, are mistaken for THIS; the very leading and misleading words of indistinction and error are **thus** in black letter denoted.]

FOR the following very ingenious dissertation and description of this ancient building, I am obliged to a clergyman in the neighbourhood of Cambridge, well versed in English antiquities, and particularly in those of the county wherein he resides.

*Rev. Wm. Cole.*

BEFORE I attempt to dive into the very obscure origin of this ancient structure, it may be useful to trace its transfer from its remotest owners down to its present proprietors; and this from authentic documents in the archives of Merton college, to whom it now belongs.

B

THE



THE priory of St. Giles's, in Cambridge, was founded about 1092, by Picot, baron of Brunne, with Hugolina, his wife, near the place where the church of St. Giles now stands: but the situation being found to be too strait and confined, it was removed, some twenty years after, to a place called Bernewelle, on the other side of the river.

WHETHER this building was any part of that foundation, I believe is more than can be ascertained: certain it is, however, that it was part of their possessions. For Lawrence de Stanfield, prior, with the convent of Bernewelle, demised the premises, formerly granted to Algar Nobilis of Cambridge, to Hervey Fitz Eustace, of the same place; this was about the year 1233, as it is witnessed by Jeremiah de Caxton, then sheriff of the county. [B. 1. 42.]

MUCH

B. 1. 42. This, the evidence in the college archives so marked and numbered, is not as here misreported, any deed of conveyance, or demise of THE premises, as intended by the preceding word *it*, and *this building*; here and of late called PYTHAGORAS'S SCHOOL, but more anciently distinguished as MERTON HALL, and still earlier as DOMUS LAPIDEA, or THE STONE HOUSE of its possessors; and of which Algar Noble was at no time one: but only a grant from the priory of Bernewelle, of some certain land and messuages, lately his, and at that time theirs, made to a Dunning [Hervey the son of one Eustace, and father of another] by a claim and descent, as it should seem from the conquest, the then proprietor of *this ancient structure*, this old Stone house and estate belonging: and which parcel as thus added to it, at length came with it from a succeeding Dunning [Richard the son of the later Eustace, and grandson of the said Hervey] to the college. And how does this prove, or what other proof is there, that the capital and Stone messuage it was thus as by this deed annexed to, was *part of the priory's possessions*? And in like wise the other evidences here subsequently denoted by B. 1. 47. B. 1. 2. and B. 1. 43. are so evidently conveyances of *other* messuages to some or other of the said Dunnings, the old and then proprietors of that *one* and only messuage here intended in the discussion, as no less to put it out of fight, how and on what ground they all or any of them can be made to pass for *it*,



MUCH about the same time, Baldwin, the son of Baldwin Blangernun, of Cambridge, conveys *this* messuage to Hervey Fitz Eustace, for one \* of the witnesses to the conveyance was Geoffrey de Hatferd, high sheriff of the county: now he was in that office from 1224 to 1232. [ B. 1. 47. ]

THE same person also grants *the said* messuage, with an holme, to the said Hervey: this was towards the end of the reign of Henry III. as Jer. de Caxton is a witness, together with Henry de Colvyle, then sheriff; but as he was in that office both in 1236, 1240 and 1250, it may be difficult to ascertain the precise year. In the copy I have seen of this conveyance, the sheriff is called Hen. de Colȳ \*\*; but as no such person was ever sheriff, and a Hen. de Colvyle, an old family, still in being, was evidently so about this time, I have no difficulty to suppose him to be the person meant, and that the transcriber made a mistake. Together with *the* messuage was conveyed an holme: [ B. 1. 2 ] this I make no doubt, are the swampy low grounds and pond-yards, lying on the bank of the river, and extending towards the library of St. John's College, on this side of the river.

ABOUT the year 1256 †, John Shotley, prior of Bernewelle, with his convent, demised *the said* premises to Eustace Fitz-

*it, the said* messuage, that one and original capital messuage in Cambridge, the Stone house and very mansion of the Dunning family and estate, they were, thus and by these deeds, first severally and individually annexed to, and then, by others, after one or two descents, all subsequently and finally conveyed with.

\* Quære whether the sheriff is not the first of the witnesses to this deed? And whether Hetford is the name?

\*\* Perhaps Colv̄.

† See under the date of this year 1256, in the next page, *the said* premises, this building, as not only then, but before, and after, the house of the Dunnings: and consequently no such house or messuage as either here, or again under the same date in p. 9, or indeed any where else in the above account, has other owner than this allows of.

Hervey,



Hervey, probably son of the former, which formerly had been in the occupation of Henry, the son of Edward Frost, [ B. 1. 43. ] whom I take to have been the original founder of St. John's Hospital, in Cambridge, about 1210, by giving the site on which the hospital was built. So that the College of St. John the Evangelist, now grafted on that hospital, and still enjoying its possessions, may justly \* be accounted the first of our present colleges.

By an indenture, dated at Cambridge 41 Henry III. anno 1256 †, Eustace, the son of Hervey Dunning of Cambridge, leases to Mag. Guy de Castro Bernardi, the messuage that belonged to his father Hervey, and in which he lived, with other Lands, &c. except the capital messuage which he had purchased of Baldwin Blangernun [ B. 1. 3. ] : and in the same year the said Eustace mort-

\* As justly as Christ Church, it is humbly apprehended, may in the other university, by *such* its ingraftment on the sometime existing but then dissolved *priory* of St. Frideswide : or if a hospital is to be preferred, almost as justly as Magdalen college may date its foundation, and precede as a *college* from the beginning instead of the end of that ancient house of the other St. John in Oxford, as a *hospital*, and a hospital given up and destroyed for it.

† See under this year 1256, as before in p. 7, and again in p. 9.

Here in B. 1. 3. two of the Dunnings, Hervey and Eustace, father and son, are mentioned as successive proprietors of this their Cambridge family house and estate ; and yet in the above report of the above grants, in the times of *their* possession, we see *this* their own capital messuage, or Stone house, instead of the several grantors and granted super-added messuages, taken to have been conveyed to them.

And in respect to what after B. 1. 3. is above added of the further disposal of this the Dunning estate, it is evident on the face of the deeds from which it is taken, that it was not in the same year, 41 H. III. but two years after, that the said Eustace mortgaged his estate to the said Guy ; and that it was Eustace, and not Richard the son of the said Eustace Dunning, who on the death of the said Guy had possession of the same ; and that he took to it as lord of the fee, and not as lord of the manor ; and that it was the king's court of common pleas, or the common bench in the king's court,



mortgaged his estate, together with this capital messuage, to the abovesaid M. Guy de Castro Bernardi, an ancient family in Cambridge; on whose decease, Richard, son and heir of Eustace Fitz-Hervey Dunning, seised, as lord of the manor, the said premises into his hands: whereupon William de Manefend, nephew and heir of the said M. Guy, brought it into the King's Bench, where it was tried before Sir Robert Fulco, chief justice of that bench, where the cause was traversed, and given against the said Richard Dunning. This happened about 1270, and probably brought on, on purpose to create a clear and legal title to the estate: for in the same year, this William de Manefend conveyed the same to the present proprietors.

ABOUT the year 1256 ‡, it appears that ~~the~~ house was in the occupation of St. John's Hospital, in Cambridge; for about that time the masters and brethren of that hospital grant to Henry \*

court, and not the king's bench, in or at which this business was in time following adjusted between their heirs, and for assurance to the college: it being *of* land, and *between* man and man, and *before* a justice (not a chief) of the common bench. And yet these notes are from the very extracts, which though sought and (as found not to answer) rejected for Mr. West's drawing, are now, to surprise, seen as here in use for Mr. Grose's: and with enough of other writing to the fairer copies now in hand, to show the hands they once were in. In that earlier publication of views by Samuel and Nathaniel Buck, there is a South West one of this place taken in 1730 on a larger scale than this by Mr. Grose in 1777, and more corresponding with Mr. West's design.

‡ See under this year 1256, as before in the two immediately preceding pages.—A year of note this in the annals of this house, as thus distinguished by this threefold possession of it: but though it be thus in the above account, it happens somewhat unluckily for it, that the evidences themselves from which it is taken distinguish three as different possessions, as they do possessors of them.

\* Not Henry, but Hervey Fitz-Eustace; not a son, but the father of the last mentioned Eustace: this father, before called Hervey Dunning of Cambridge, being himself the son of an earlier Eustace, from whom in turn the later as grandson appears to have had his name.



Fitz-Eustace, and his heirs for ever \*\*, two beds with their necessary coverlids, for the use of infirm persons, in their stone house, obliging themselves to find a chaplain, and to celebrate mass, especially for the soul of Eustace Fitz-Hervey, in acknowledgment for the lands granted by him to their hospital, lying in Cambridge [B. 1. 45.], Chesterton [B. 1. 44.], and Madingley [B. 1. 46]. No doubt he was a considerable benefactor to that religious house, though omitted as such, by the worthy Mr. Baker,

\*\* As in place then and *thenceforth* the hospital's; and not in THIS as *never* theirs, but then this very family's, and since the college's, as just before evinced.

B. 1. 44. and B. 1. 46. These, the evidences so distinguished, in indication of grants from the Dunnings, out of the estate to them and THIS their Stone house belonging, are the title to others and of other sort from the possessors of another and other sort of stone house in return for them: grants in relief of bodily and ghostly need and infirmity from the hospital in their way, for the enabling ones of additional and provisional endowment from the Dunnings in theirs: grants of beds and masses on the one side, and from the proprietors of the one stone house, for and in acknowledgment of the lands and hereditaments granted in support of them by those of the other Stone house, and on the other side. The grant of beds in the one stone house of the hospital as in B. 1. 44. seeming in aid and exoneration of the other, the quite other Stone house of the grantee: it being made to Hervey Fitz-Eustace, its then inhabiting proprietor, and his heirs after him, for and in consideration of his therein acknowledged grant of endowment for them out of its appurtenances in the fields of Chesterton. It was the subsequent grant from its next succeeding proprietor, Eustace the son of the said Hervey, of other provision in the vill and fields of Madingley, and to the same Stone mansion appertaining, which obtained for both of them, that further and other kind of aid the hospital could confer on them, a constant anniversary within the same; as in the deed from the hospital to him the said Eustace and his heirs for this establishment. B. 1. 46. And B. 1. 45. is in shew of other grant from the said Eustace to the hospital of other portion in the fields of Cambridge; and as title to the rent it is charged with, occurs between B. 1. 44. and B. 1. 46. among the other muniments of this estate.

The mention of the stone house of the hospital as here in the above account, is the only notice which occurs of any stone house throughout the whole of it. And yet the evidences are clear for another, and that as clearly another as any difference of name,



Baker, in his excellent history of that foundation; for so late as the year 1284, when Richard Cheverel was master, they oblige ‡ themselves to find and maintain a chaplain, one of their brethren, for the above purpose, within their own house. This was after Merton college was in possession of the messuage, but yet for the lands which he had conveyed to them, they were obliged to celebrate for him as a benefactor. The manor was settled on the college by bishop Walter de Merton in 1270, as appears by this description of it by the founder in his second charter, and the title he added to it §. *Terr. et Red. quondam Rici Dunning & Wilhelmi de Manefeld, quos ipsi in Cantabrigia & Portibus adjacentibus mihi dimiserunt.* And they were the chief persons the college was concerned with in the purchase.

## THE

name, nature, use and occupation can make it: in short that one and only messuage of the whole variety therewith confounded in the above account, as the very subject of it; that capital one, THE STONE HOUSE or hall of the Dunnings, and to whom as masters of a place in itself and its proprietors so considerable, it might be altogether as suitable to have the aid of beds in the hospital's stone house, as out of all occasion to have the hospital's grant for them in their own Stone house. But besides this want of distinction of these houses of stone, as well as of the others which were not such, there wants other distinction of times, persons and purposes, &c. as seen in the grants themselves; but too much in reverse in the above account of them.

‡ *Oblige themselves.*] Quære to whom, and for what, and by what, and what sort of repetition, under this so late a date as 1284? the estate out of which these grants were made, and with it the grants under seal as made in return for them, being then and for fourteen years before by change of possession transferred to the college, who know not of any such posterior and untimely obligation.

§ *And the title he added to it.*] The Latin words which follow, viz. *una cum terris et redditibus quondam Ricardi Dunning et Wilhelmi de Manefeld, quos ipsi in Cantabrigia et partibus adjacentibus mihi nuper dimiserunt*, not being the title, but words of description of this particular of endowment in the charter, (the general charter of all the endowment of the college in 1270, and not any particular charter of this particular estate); these immediately preceding ones in English, viz. *and the title he added to it*, as somewhat more than redundant, (ungrounded indeed and misleading), should not have been so unadvisedly inserted.

And



THE great difficulty is still behind, I mean the original use and destination of the building and by whom erected \*. That it was not designed for any religious purpose is plain, for its having no one part of it proper for an altar to be placed in, and its having only one entrance would be equally inconvenient. My first thoughts were, and I have not altered them, that it was a part of Picot's foundation for a prior and six canons : where the site being found too confined, Pagan Peverel removed them to Bernewelle ; whosoever looks at St. Giles's Church, which has all the marks of one of our most ancient buildings, must be convinced, that could not be the site of Picot's foundation, both as the choir and church would be too small ; but more especially, as it is bounded and hemmed in on two sides, the south and west by the king's highway, and to the north by the precincts of and adjacent to the castle. The way also from them to the river, must consequently have been across the road to Chesterton, which would have been inconvenient.

POSSIBLY the priory might receive its denomination of St. Giles's from its vicinity to this parish church, even from the founders : in the same manner as Corpus Christi College acquires its usual one from the adjoining church of St. Benedict.

\* And here it cannot but occur, that as the above evidences were before put by, as not speaking to the points of inquiry, the use, destination and erection of this building, it may be in supplemental aid of them as now brought forward, and observed upon, to have it added, that in an inquisition not much posterior to them, this very place, by the name and description of DOMUS LAPIDEA, shows only as a building of old in the crown, and in private use and possession from the conquest, and without the name of any other proprietor till it came to the Dunnings : the notice of which, though greatly prior to the publication of the above, was not had till all call and occasion for any further imparting it seemed quite at an end : and for the other evidences indeed communicated, as the most pertinent to this title and to this inquiry ; from the first sight to the use made of them, it never was conceived that they could be used as they have been, with so much of restraint and force put upon them, and so little to the apparent and consistent meaning of them.

BUT



BUT even allowing the situation of this priory to have been where I would rather suppose it to have been placed, still they must have been much cramped and confined, which probably occasioned their removal, for on one side was the common road, and to the east, a range of buildings constituting the street opposite Magdalene College; and to the south a morass with a branch or cut of the river by it, now filled up. At present I conceive, nothing positive can be said on a subject too much in the dark, till farther discoveries are made to throw more light upon it.

HOWEVER that may be, this building bids fairest to authenticate the antiquity of the university of Cambridge of any in the place, as it seems most likely to have been the structure where

However, for the more easy comparing the use with the evidences; all the misapplied ones, and therein almost all the used ones, of the many which were communicated, are here, under their proper marks and numbers, and from the transcripts before had of them, attentively referred to. And this is neither done, nor said, but with some sort of assurance, that on any after review of these evidences, it cannot but appear extraordinary, and to have proceeded from extraordinary attention and attachment to the object, that this one message should be found in all of them; and that no other than this one of Pythagoras should be discerned in any of them. For though this capital message is the main object, as well in the title, as in the inquiry; yet not to notice others, in any way respecting it in the one, could never be understood to be according to the intention of the other. And that there were others to be noticed in regard to each; these deeds, few as they are, cannot (as here apprehended) be too few to show. Nor let any uncommunicated ones be thought wanting, if these, or any transmitted with them, were beyond or beside the purpose of the inquiry. As the others in general do not like them respect this building. They do not alike locally, or historically respect it, either in itself, or its possessors, or the intercourse had with other persons and places of note in and about Cambridge; before this *chief* message, with all other its *appendant* ones, was transferred in mortmain to the college it abides in: nor in any other way, but that of private right, are they alike, and so far as to the same degree, interesting or informing. And besides being thus and otherwise alien and unimportant to this account of it; they, from a no small plurality of rights and members, are so very complex and various, as not in the least to seem desirable materials for it. They could not to all appearance have added to the perspicuity of it; and neither from them, nor the account itself, is it now seen, that it might have been otherwise improved by them.

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the



the Croyland monks gave their lectures to their scholars : and from them has retained the name of school, from that period to this very time.

THE undercroft is exactly in the same stile of building with that given by T. Hearne for St. Grymbald's Church, except in a plainer and more sober way, consequently more likely to be the antienter of the two ; and that this has only a single row of pillars which run in a line from one end to the other, which by the plan and section taken by Mr. Richard West \* in 1739, and published by Mr. Masters some years after, seem to have their plinths or bases hidden and sunk into the ground. Of these pillars there are only five round and short with pilasters on each side and end, opposite to every one of them. The arches are semicircular and spring from the pillars to the walls, which are of a great thickness, and contain on one side only four narrow windows. The capitals are of no positive order, but of the plain style of the unornamented sort in Grymbald's crypt and that

\* Mr. West's plan and section being but of the lower part of the building exhibited in the other prints of it, and this shewing but as the arcade to a superstructure : to judge as well of the parts from the whole, as of the whole from the parts, and of one part from the other ; more information seemed wanting in respect to what was to be sustained by these arches, than Mr. West's design with any view of the whole exterior would supply. On inquiry therefore being made ; the superstructure was reported of as a single room, undoubtedly the principal, and indeed a very good one, with old and decayed windows, and for the most part stopped up, for the preservation of the corn for which it was then a repository. The lower part seems to differ from the other crypts mentioned in this account, as being a vault above ground. As such however, it was then applied to the keeping of cyder, and looked as not very much perverted in the being so. And supposing the floor above it as still subservient to the first intention, and this but the storing part of the whole original mansion, it might not be the only instance of an ancient granary erected upon arches. There is, as in the prints, an attached building at right angles on the North, said to be ancient, containing only one small room, from which the present dwelling house is continued on in a strait line, probably upon or towards what was formerly the western side of the court, as mentioned not only in the evidences of the college, but in Leland's Collect. Vol. ii. p. 440. ex libello de prioribus Bernewellensis Cœnobii.

under



under the choir of Canterbury cathedral. It seems to me that the use of it might be in the last instance, whatever its original one was, to have been to read lectures of philosophy and the sciences in, and to have been made use of as schools of learning, with rooms over it for the same purpose, in various branches. If this is allowed it will carry up the date to 1109, when the Benedictine monks from Croyland Abbey came to Cambridge for that intent : some few years after which, about 1112, the canons of St. Giles's left Cambridge for Bernewelle. On their retreat, it is no strained inference to suppose, that they might accommodate these professors with a building that would be so convenient to them and was of no use to themselves, at their first coming hither they were contented with worse accommodations.

MR. GOSTLING in his account of the crypt under the choir of the cathedral of Canterbury, as Mr. Hearne in his of that under St. Grymbald's, seem to aim at very high antiquity in their respective relations of them. I can hardly suppose either of them so antient as the 10th century : Hearne has a system to complete, which was never out of his head : but Mr. Gostling was of a soberer and more rational understanding. However their conjectures may turn out, or whatever may be the age of either of their crypts, it must be in favour of Pythagoras's school : for the same sort of building with pillars and arches of the same style, will equally prove that this at Cambridge is of as high antiquity as either of the other. This view was drawn anno 1777.





under the title of Cambridge cathedral. It seems to me that  
the title of it might be in the first instance, whatever its original  
one was, to have been to read lectures of philosophy and the sci-  
ences in, and to have been made out of as a school of learning.  
which room over it for the time being, its various business.  
It thus is allowed it will carry up the date to 1500, when the  
famous master, John Croyland, Abbot came to Cambridge  
for that purpose: some few years after which, about 1515, the  
canons of St. Oliver left Cambridge for Barnwell. On their  
return, it is no distant inference to suppose, that they might  
recommend that practice with a building that would be  
to compare to them and was of no use to themselves at  
that time, being they were contented with work ac-  
commodations.  
The building in the account of the city under the title of  
the cathedral of St. Andrew, as Mr. Leland in his of that under  
St. Andrew, seems to be at very high antiquity in the re-  
markable of them. I can hardly suppose either of them  
to exist as the cathedral. It might be a place to worship  
and was never out of the hands of the church, but of a fo-  
lows and a building with St. Andrew. It seems that can-  
not be a building, but a place of either of  
the cathedral of St. Andrew, I think it is for the  
cathedral of St. Andrew, and seems to be the same thing.  
The cathedral of St. Andrew, I think it is for the



ON recourse to the archives in the treasury of Merton college for this title of endowment, *CANTABRIGIA CUM MEMBRIS* — *Chesterton, Gretton, Howes, Newenham, Cotes, Bernewell, Ympington, Granchester\**, *Over* : it appears, that their Cambridge estate, as annexed to this their old capital messuage, manor house, or hall, (the place before discoursed of) was not, in the earlier notices of it, altogether the same as in the later, and in no respect either more or less, before, than when, the college obtained it ; but with the addition or acquisition of some particulars to it, had others intermediately transferred from it : and that the old original and denominating stock, this capital messuage, manor house or hall, and its appurtenances, however in the interim augmented or diminished, had long (as by retrospect from the conquest) been private property, and in the same family, of the name and ancestry of Dunning.

It being by them then whilst in possession, that these alterations, and by some of the latest of them more especially, that such as we are here concerned with, were made ; some parcels acquired to, and some lesser ones detached from this their hereditary estate ; *other* messuages in particular, as here before and after noticed, being conveyed to them by Baldwin the son of Baldwin Blangernun (as in B. 1. 47. and in B. 1. 2.), and by the priory of Bernewelle (as in B. 1. 42. and B. 1. 43.) ; and some few particulars being parted with by them to St. John's hospital, but not without

\* The mills at Granchester came to the college soon after the rest, but from different possession, and by separate conveyance.



returns in their way made for them (as in B. 1. 44. B. 1. 46. and B. 1. 45.); the whole from the thus varied and varying state of it in the Dunnings, was, on purchase, and discharge of all obligations, brought and transferred to one of less variation and still greater continuance in the college 54 Henr. III. 1269-70. (B. 1. 3. & sequent.)

AND thus Cantabrigia cum membris though considered as one estate, since under one possessor; yet resolves itself on inspection into parts, parcels, and *messuages*, of different sort, size, tenure and derivation: as capital and inferior; in Cambridge and out of it; from the crown, earl of Leicester afterwards house of Lancaster, priory of Bernewell, mesne and other possessors; and under different rents, and acknowledgements, not only as then specified, but as now in some instances of them still paid and subsisting.

FAR therefore from seeing reason to conceive of each separate grant and conveyance, *to* and *from* the Dunnings, as carrying evidence with it of *other* possession or conveyance of this their place and building; there is to be found amongst all the writings, evidence only of *such* their possession and conveyance of it, as is before represented, and here again, on such call and occasion, in a somewhat more collected and adjusted view of this title, for still more elucidation repeated.

HERVEY DUNNING of Cambridge, sometimes styled Hervey of Cambridge, was the son of Eustace, and by a long succession of ancestors, and a claim, as it appears, deduced from the conquest, in the former part of the reign of king Henry III. hereditarily possessed an estate from the crown with the capital messuage in Cambridge in which he lived; and which, till, on its coming to Merton college by or through Walter de Merton the founder, it obtained the name of Merton hall, passed in the general, and from  
its



its old possessours, under the stile and description of **T H E S T O N E H O U S E** in Cambridge, with a garden and a court, and all other its appurtenances ; the same likewise, at and from that time, being clearly manerial, and appearing to have been situated near the castle in Cambridge.

To *this* then, and in the same reign, were variously added or acquired, diverse *other* messuages, some from the aforesaid Baldwin near Cambridge ( as in B. 1. 47. and B. 1. 2. ), and some from the said priory *in* it ( as in B. 1. 42. and B. 1. 43. ); and these as thus added to the said capital messuage, *this* Stone house in Cambridge, Eustace, the son of the above Hervey, together with it, and amongst his other lands and tenements in Cambridge, Chesterton, &c. &c. had pledged, mortgaged and engaged to Master Guy of Bernard Castle ; and they both dying nearly together, the further concern therein descended to their heirs, Richard Dunning the son of the first, the mortgager, and William de Manefeld the nephew of the other, the mortgagee ; who in the month of March 54 Henry III. 1269-70, at the instance and expence of the founder, settle their interests so as to make what was then thought a very full and sufficient title of all and every of the above, in one estate, to the college. ( B. 1. 3. & seq. )

AMONG the title deeds of which, and as part of the title of this the Cambridge estate, there are ( as in B. 1. 44. and B. 1. 46. ) two separate grants, but both in the reign of Henry III. from [ Anthony and Richard ] the then masters and brethren of the then hospital of St. John the evangelist in Cambridge, made, under the common Seal of the same, to the Dunning, the then proprietors of this, *their*, the before mentioned capital messuage or Stone house in Cambridge ; the first ( as in B. 1. 44. ) to Hervey Fitz Eustace and his heirs for ever, of two  
beds



beds and bed cloaths for sick persons, to be found, within *their* stone house [ in domo *nostra* lapidea, say *they* the master and brethren ; and so in *their* hospital, or some stone house as infirmary appendant to it, and as *inalienably* appendant to it ] *for ever* : and the other ( as in B. 1. 46. ) to Eustace Fitz Hervey, the son of the former, and his heirs, of a chaplain from among the religious, of the said hospital, annually and perpetually to celebrate within the said house for the souls of him the said Eustace and of all belonging to him, his father and mother, their ancestors and successors, and of all the faithful departed : and both these in consideration of lands by them granted for these services, and out of this estate ; there being other ( as in B. 1. 45. ) upon a rent. It is above said, as part of the title of this the Cambridge estate, it seeming from the delivery of these deeds with the estate to the college, that as deeds of title to returns for some of it, and so delivered with the rest, they in some sort or degree respected the estate, and the college as succeeding to it ; instead of being both of them together restrained, ( and if so, it should seem, they should have been retained ) to the family. And then in this wise, the college succeeding by purchase and in the place of the heirs, the filling of these beds should seem to have been derived to them in right of the estate. At all events, however, in the taking of the one Stone house for the other, there seems to be a total reversing of the matter ; St. John's hospital in its infirmary, to the degree as in B 1. 44. being clearly the infirmary to Pythagoras's school, ( in the then proprietors of it at least ) instead of Pythagoras's school the infirmary to St. John's hospital : though Pythagoras's school, it may be noted, is not the name this old building is ever called by in any of the writings.

AND now with thus much of this the general title and conveyance, and of such the particulars as above contained in it, the  
latter



latter from the use and authority they are made of, may be a little more distinctly viewed, than in the notices already taken of them.

AND not from them, as thus apart considered, to assume it as apparent, ( it being more so to be sure in the whole of the evidences, than in the particular grants of the particular messuages ) that the Dunnings were the ancient proprietors of this ancient place, this venerable old Stone manor house and estate belonging, and to which by unity of possession the after acquisitions of their other messuages come only in appendage; and not to make it the inquiry how the priory of Bernewell's grant as in B. 1. 42. *of 30 acres of land in the fields and two messuages in the town of Cambridge, late the estate of Algar Noble and his wife*, proves the grantor's right in the estate of the grantee it is acquired to, let it only be inquired, how it infers a right in any estate but that which is the immediate concern of it? how it shows the premises in the grant to include the premises out of it, ~~the~~ very premises and it of the account, as intending *this ancient structure*, this building? —the grant, as from them, and not of *it*, but of something very different from *it*; and till that time, and as then made to the very proprietor of it, not at all belonging to or connected with it; no way shewing it to be any part of the *by them* demised premises, or of the possessions they were demised out of; and as such, *their* possessions.

AND so likewise, in respect to all and every of the three several sequent grants to the Dunnings, Hervey and Eustace, father and son, as in B. 1. 47. B. 1. 2. and B. 1. 43. these very grants, apart from, or over and above, the consideration of their being made to the then proprietors of this their family mansion, are clearly grants of other messuages than this as here misconceived to have been so very variously conveyed to them. The messuage in B. 1. 47.

F

though



though in the account ~~this~~ messuage, this their Stone messuage, being as in the evidence and other notices of it, another and much inferior one, and not in Cambridge ; but in Chesterton. That in B. 1. 2, though alike in the account ~~the said~~ messuage, and ~~the~~ messuage, being clearly in the evidence that capital messuage, as afterwards in B. 1. 3. distinguished from this Cambridge one, and still more to be distinguished as, together with the last mentioned inferior one, being situate in Chesterton ; and not in Cambridge. That in B. 1. 43. though ~~the said~~ premises, and so this same house and building in the account, being another and of other sort and possession in the evidence. It was a Cambridge messuage heretofore belonging to Henry the son of Edward Frost, and as passed by this grant from the prior and convent of Bernewelle to a Dunning, became as the rest an appendage, and only an appendage, to the capital messuage it is thus taken for : all these three messuages, and the above two as in B. 1. 42. being not only different from that which is next and now for the first time come to, the messuage in B. 1. 3. and the only one at all in question, the capital and Stone messuage in which the Dunnings lived in Cambridge ; but being likewise every one of them distinct and different from each other ; and still distinguishable, it may be, those at Cambridge more especially, in their difference of state and difference of situation.

FROM the name of Frost as distinguishing one of them, occasion, we see, is taken to speak of St. John's college, in its succeeding to St. John's hospital, as the first of the present colleges : but in what other sort than that of having incorporation, college and common seal, a hospital can be accounted a college, whilst an hospital, and not a college, i. e. an academical college, is no more seen, than how ( to make the most of the term grafted in this extension, as it should seem, of Mr. Baker's application of it, and  
against



against his idea and intention of the stock as a dead and dissolved one ) one tree can become another tree by ingraftment, and yet before it ; or the branches, any more in their ingrafted than natural state, bear the root, instead of the root the branches. And though in ordinary acceptation, *the graft is not changed into the nature of the stock, but turns the stock into its own*, and the tree, as known by its fruit, from the sour crab becomes the sweet apple : yet in reference to ingraftment in these sorts of houses, the stock, in virtue of its *before* incorporation, and as *then* of necessity a live one, is understood to bear the branches grafted into it, without any kind of conversion of either its name or nature. So that however in either the earlier or later accounts of this college, it may be set forth as *originating in*, or *ingrafted upon*, the hospital ; or be set under it, as *derived from*, or *growing out of* it ; yet no mode of expression or arrangement in any of them occurring, can at all authorize so total a confounding of these two no less distinct than different foundations, incorporations and sorts of incorporation, as there needs must be in the making of the one, either the same as the other, or, without its being so, as old as the other. And to judge of Mr. Baker from the whole of what he says, and the very purpose of his undertaking, and not merely from a word of his, neither authorized, nor to be authorized, by him, in such a use of it ; he, in and through his history of these places, from the title to the end of it, distinguishes the hospital from the college ; and that as a different and preceding body, in the rise and fall of it making way for, and giving occasion to, the other ; a better and more beneficial other, as by a subsequent and new creation founded on the death, dissolution, extinction and ruins of the former. And this therefore not in strictness as a branch ingrafted on a stock, and so, as on a live one becoming one with and living only by it ; but as one distinct and entire tree successively planted in the room of another ; much to this time remembered, ( and  
now



now through him still more to be remembered, ) as having so very happily given way to it.

SOME centuries before the dissolution of this hospital, some studying seculars, or secular students are seen to have had place and establishment in it, by a requisite and regular endowment and induction. To have made them a part only of that *unum corpus et unum collegium* of it, which the religious of it had before wholly constituted and without them, there must indeed have been an ingraftment as in these sorts of houses, and with an added revenue to the general body, though appropriated perhaps to the ingrafted part of it. And to have made them a college in other sort or sense, whilst within the hospital, they must either have been made one of themselves, *collegium in collegio* ; or the hospital have been made one by and for them, and so by that other sort of ingraftment, most strictly transmuting the living and all enlivening stock into the very name and nature of the graft ingrafted on it. (1)

FROM

(1) And here it may be noted that besides the distinction of ingraftment as above ; for still more exact application, there may be other distinction of scholar-ingraftment as that which preceded, and led to, college-incorporation, viz. the ingraftment of scholars upon such a before established house of incorporation as this hospital : and that which succeeded college incorporation, by making use of that incorporation in advance and for enlargement of the same : and in either way by endowing the BODY for support of the ingrafted, and in that sort, *incorporated* part of it. Ingraftment in the later use of it, is the more easily apprehended, as still in use, in frequent use, and nothing alien from the original foundation : but as antiquated and singular as well as heterogeneous, in that which had preceded, its now appearing evidences may be of such sort and variety, as to be the better judged of from the ingraftment, as well as the ingraftment from the evidences ; and that union and distinction of persons and property, as well to be looked for in, as to be inferred from them, become the more apparent, the more the evidences themselves are seen together and in the consistency which is required of them. The entry for example in the Regist. Montacute fol. 17, and as there on the authority of Hugh de Balsam's and other documents, quod predicti scolares Domus Sti Petri dudum fuerunt unum corpus &c. una cum fratribus Hospitalis Sti



FROM the union however of scholars for learning, and brethren for religion, as here in the hospital, whatever was the sort of it ; and from the connexion of them as in the society referred to for example,

*Sti Johannis, ecclesias appropriatas, et bona &c. in communi habentes, being, it is to be presumed, in a proper and consistent understanding of it, as strictly right in respect to the union of the scholars with the brethren in the hospital, as his own very words in charta de anno 13 Edw. 1. num. 103. are in respect to their distinction from them therein. Nos, hujusmodi regio accedente consensu, [as therein before related from Pat. 9 Edw. 1. m. 28. intus.] certum numerum scholarium in dicta Domo fecimus induci, certa bona a bonis dicti Hospitalis separata ad ipsam scholarium perpetuam sustentationem adquirentes et eisdem assignantes.* On the mere supposition, however, of any kind of real discord between these evidences, it cannot but be seen, that the latter are the authorities, those original and originally effective authorities, which the register in this entry on it, some sixty years after, looks up to. And for a sometime somewhat larger, more liberal, and less appropriated idea of the words *unum corpus et unum collegium* than the members of our present colleges are apt to affix to them, respect may be had even in *Hist. & Antiq. Univ. Oxon. lib. 1. p. 124.* to that general and solemn compact in 1274, *quod de cætero partes non fiant seu nominentur in Universitate ; sed unum sit Collegium et unum corpus.*

And as a still earlier step towards college incorporation in Cambridge [preceded, as to be seen in Wood's History, by a like in Oxford, an. 1243.] it may be further added, that before this endowment of this religious house for these scholars thus founded in it and in Cambridge ; there was another neighbouring house of religion, but *out of* that place of learning, which had endowment from Bp. Kilkenny in 1256, for two chaplain scholars *perpetually* to PRAY for his soul and STUDY in it. But then there the root and branch not being, as in this further advance towards college-incorporation, together ; the word ingraftment will not in a *like* degree apply to that endowment of these two Bernwell exhibitions. See the history of this place p. 53. 71.

These students Mr. Baker in his MS. history of St. John's hospital and college mentions p. 10. as *endowed upon* the Canons of Bernwell : Hugh de Balsbam's scholars p. 42. as *planted upon* the Austin canons in their *collegiate* priory or hospital of St. John : and the college of St John p. 59. as *ingrafted* upon this the old stock : whereas perhaps there might have been more suitability and discrimination in an interchange of expression in the two last of these instances : a new ingraftment of course becoming part of an old and still subsisting foundation ; and the site and endowment of an old and dissolved one being not unusually made the substratum of a new ; and that as of a new plantation. In p. 10. however, Mr. Baker applies the word *ingrafted* to the above scholars of the above bishop ; and in other places speaks of the dissolving of their con-



example, as in the royal patent for this union, 9 Edw. 1. m. 28  
intus. (2), learning and religion were soon brought together as in  
the

nexion with the brethren of the hospital, as not merely *giving birth to* Peterhouse, but as,  
in the end making way for *that first step towards the foundation of* St. John's likewise, the  
dissolution of the hospital : — that college being so far *founded from* it, as being *built,*  
*planted,* or *founded upon* the ruins of it, and together with its site and endowment deriving  
some of its ancient rites and ordinances *from* it.

(2) Patent 9 Edw. 1. 1280. Such authority being seen to be wanted on every suppo-  
sition of every kind of incorporating that could give the scholars perpetuity in the hos-  
pital : whether they were to be so ingrafted, and with such settled endowment, as to  
become part of, and one with, the *corpus et collegium* or old *corporation* of the hospital as  
then in being ; or whether, to make another college of them, they were to be distinctly  
incorporated and endowed as such, within the former ; or the super-ingrafting was to  
be such as to transform the old into a new one : — the fiat of the crown appearing to  
be wanting as well to the very materially new modelling, as to the new making a corpo-  
ration : to the giving subsistence under a new form, as well as existence under an  
original one. And in respect to a college such as should be intended, wherever an aca-  
demical one is pretended, and such as every academical one now in being is ; how can  
it have capacity for endowment but by incorporation, or for incorporation but by en-  
dowment ? or how become intrinsically and perpetually eleemosinary but by both, as  
inseparably essential to such a foundation ? Apart then from that variously apprehended  
and misapprehended appearance of prelude and approach to college foundation in Cam-  
bridge as in 1280, where and what is the evidence (there being neither room nor pre-  
tence for prescription in the matter) of any distinct and independent college, as with a  
perpetual endowment by incorporation invested in it, till Hugh de Balsbam *de novo con-*  
*struxit*, as in the words of Simon de Montacute in his preamble to the statutes, or *began*  
*and erected from the ground*, as in the college commemorations, the *house* or *college*  
of St. Peter in Cambridge. anno 1284 ? And would it not in any more formal process  
now be set forth, that the house or college of St. Peter in Cambridge was founded by  
Hugh de Balsbam in that year ? such founding not being from his ingrafting of scho-  
lars upon the house or hospital of St. John the Evangelist, but from the removing them  
to the house or college, or college house he had prepared for them by the church of  
St. Peter, and from which it had its name. And in this and no earlier way of establish-  
ment, it seems, for any thing that yet appears, as rightly, as generally, understood, to  
be the first that ever was of such sort and foundation in the place : the word  
*domus*, in this as in other houses of community, denoting both house and com-  
munity ; and that either jointly or distinctly : and the word *collegium*, as added in  
explication, alike and in like sort, but with more and more familiarity and appropri-  
ation, denoting such a house and a so established community of scholars in the university.

But



the present colleges in the universities : the scholars of this hospital in Cambridge having been made a college of themselves (3), as in the after instances of this sort of foundation ; and the hospital as in other instances of undissolved hospitals, having been continued a hospital, 'till dissolved as it was, for the offence of its people, and to make way for a no less new, than in other respects less great and promising foundation.

BUT

But then, as even these, the *locus venerabilis*, and *viri venerabiles* of the place, [the house of scholars, and the scholars of the house] are to be for ever supported in the way of the appointment, *domus* seems in some sort and at sometimes used, as the supporting as well as the supported part of the foundation ; and not only thus as the sustaining stock of it, but still more comprehensively, as containing and implying every thing of right, rule, and revenue, &c. as in the whole of the establishment.

(3) Anno 1284, as by the clearly original, as well as recorded evidence, of the sovereign and the founder in that year. Whereas in the carta regia data Custodi et Scholaribus Domus S. Petri 15<sup>o</sup> Maii 2<sup>o</sup> Ed. 1. noticed as a prior evidence of this house and foundation by Dr. Caius and Bp. Wren, and from them brought forward by other very great and respectable persons, as making undoubted mention of it in that year ; besides its ill consisting with fact and authority so allowed and established, there is a discordancy in the style and the date too obvious not to occasion doubt on the very face of it : there having been no room for such and so advanced a style till upon the removal of the scholars from the hospital to their house or college near St. Peter's church (and thence called Peter house ) ten years after. Presuming therefore upon an error between the style and the date, in admitting of this grant as a true one and rightly reported, it may be some advance towards the seeing in which of them it lies, to know what such grant to such scholars, and under such a date, was for. And in lucky addition we have it from Dr. Caius, Hist. Cantabr. p. 55. that it was for annexing the [ *not then relinquished* ] house of the [ *not then suppressed* ] friers de penitentia Jesu, to this house of scholars, and by this name ; as see in Mr. Baker's MS. history of St. John's hospital and St. John's college. p. 11. It does not appear either from Mr. Baker as above, or from Mr. Wharton in his Anglia Sacra, Vol. 1. p. 637. or from Dr. Richardson in his note upon Godwin Vol. 2. p. 111. that Bp. Wren says more than that he had seen a royal grant to them by that style and of that date. Being however as before in possession of the purport of it from Dr. Caius, we may turn to a record of the same purport in the since published part of Mr. Rymer's collection, and thus referred to by Bp. Tanner in his account of these friers de penitentia Jesu Christi or de Sacco. Vide in Rymeri Fœder. &c. Vol. iii. p. 137. pat. 2 Ed. 2. p. 2. m. 6. and again under Peter-house, Vide pat. 2 Ed. 2. p. 2. m. 6. pro mess. in quibus Fratres de penitentia Jesu inhabitare solent,



BUT this how much soever within the occasion given for it, is rather out of, and digressing from, the first intention of adverting only to what arises from the Merton evidences of this Cambridge estate; and that with a desire only of its not passing too unquestionably, and in the college more especially, that the preceding is really and truly their archives account of it.

TO which evidences therefore and this account of them now to return, and in the before order of proceeding. — With such notice then of the acquisitions by the Dunninges to this their old and original estate; and not to enter further into what is next after added of their general conveyance of both; (the place in question, however in the first undiscoverable, being capitally and unquestionably beheld in the other) we come again in course to the particulars detached and transferred *from* it, and the benefits in return from thence accruing to it, or to the old possessours of it.

lent, [ *solebant* in the license, they being before the grant of it *suppressed* and *dispossessed* ] and there it will occur to the above purport. It is to be found translated in the Appendix to Mr. Carter's History of the University, p. 389, 390. and the title and heads of the whole as in Rymer, are as follow,

*Pro Custode & Sclaribus Domus Sancti Petri Cantebriegie.*

Rex omnibus ad quos &c. salutem. Concessimus & licentiam dedimus &c.

Quod ipsi Messuagia prædicta recipere possint & tenere &c.

In cujus &c. Teste Rege apud Westmonasterium 15<sup>o</sup> die Maii.

the date as here according with the style and the occasion, and it being moreover the same day, of the same month, of the same year, of the same king by name, and so as not to leave a doubt of the one under the righter number of II. for I. being the enrolment of the other. And it is much that Mr. Baker in his *after* added notice of this license as from this *later* publication of Mr. Rymer, should not notice it as the same evidence: there being a show even in what is said by Mr. Baker, (though not so complete a one as if he had added the month and the day) that it is so. And the seal if remaining to this license, from the addition to his father's seal by the second Edward, (if so early made by him) may very well be expected to confirm it.

THE



THE grant of beds in the hospital in B. 1. 44. is to *Hervey* Fitz-Eustace and father of a succeeding Eustace, on account of or in return for seven acres of land in the fields of *Cesterton* by him granted to the hospital. And the grant of a celebrating chaplain by the hospital in B. 1. 46. is to *Eustace* Fitz-Hervey the son and successor of the other in this their ancient seat, on account of or in return for his grant to the hospital of all the demean which he had in the vill and fields of *Madingley*, with its appurtenances. And B. 1. 45. is in evidence of a grant from the said Eustace to the hospital of two acres and a half of land in the fields of *Cambridge* at the yearly rent of 2d. and without any other consideration appearing: these *Chesterton*, *Madingley* and *Cambridge* grants being all at different times, and distinguishable as above. The latest of them was in the time of this Eustace the father of *Richard*, the last succeeding Dunning, or last of that name, who succeeded to this estate, and who fourteen years at least before 1284, transmitted the estate, the Stone-house and estate, and therewith these the above amongst its other title deeds, to the college. The master's name indeed is Richard in the deed B. 1. 46. but that notwithstanding, and whether he was Richard Cheverel, or an earlier Richard, it is as clearly prior to the date 1284, as 1284 is posterior to the occasion: the house, the estate, and the deeds, even these very deeds, we may thus repeat, being not then, nor for fourteen years before, in the Dunnings possession, but in that of the college.

BUT to come to the main of the matter contained in them, or rather in the first of them B. 1. 44.—We know indeed for certain that at the time of this grant, (to pass by all the diversity of possession, occupation, and disposal, attributed to the time it is affixed to, viz. 1256, as before in the account) Hervey Fitz-Eustace the

H

grantee



grantee was not only the proprietor, but inhabiter of the Stonehouse in Cambridge, the very Stonehouse in question (4), and that therefore *the* house (intending this house) *was* not *then* in the occupation of *St. John's hospital*: but taking this as unknown, how does it appear from the hospital's grant of beds in *their* stonehouse, that *this* the Stonehouse to which is here given the name of Pythagoras's school, was *their*, the hospital's stonehouse, unless it can be shown, as to be sure it cannot, against such disproof, that this Stone building was, and no other could be part or parcel of the hospital, or appurtenant thereunto? And then in respect to *their* stonehouse, it must from the very nature and words of the grant be seen in such sort *theirs*, as not in such very different sort, and so immediately thereupon, to be made the mere private property of an *individual*; and tenable, and inheritable, and transferable accordingly.

THERE appears, however, and therefore it has been the more

(4) The Stonehouse of the Dunnings, since called Merton hall and the house of Pythagoras:— and against conceiving of it as the only ancient stone built house in Cambridge once in private hands; that of Bede, as not the same nor in the same possession, though so reported by Mr. Twyne in his apology p. 319, is most conspicuously in the way: this, on better and more local information, being in very different situation; the house some time of one Jocus a Jew, and thought by Mr. Baker to have been in use as a synagogue, and so to have obtained that other name of the Jews house. An. 19. Edw. 1. the year after their banishment from England, the king granted it to Roger Maniaunt: it came afterwards to the priory of Bernwell, and finally to St. John's college. And of another stone house very near to this, given to the said priory by Master Robert de Fulburn, a great benefactor thereto, and who died but fifteen months before the burning of the priory church 3. Febr. 1287, see in Hist. of Bernwell p. 43. And of another sometime the property of Sir John Cambridge, one of the justices of the king's bench, and given by him to the gild of Corpus Christi, of which he was alderman in 1311; from whence it came to the college of that name, and finally by an exchange with that college became part of the site of Gonvil hall, see in the several accounts of Corpus Christi and Gonvil and Caius colleges.

attended



attended to, a stone-resemblance between these two houses (5); which is by no means the case of the various others which have preceded: and yet even they in shorter compass and with more dispatch have before been made, than here unmade, the same with them and each of them.

THE founder's evidence is before produced for his concern with Richard Dunning, as party in the conveyances of this estate: and of what was thereupon recorded of it, we are informed from inquisitions taken in or near the time of the founder, before in part referred to, and here again in fine recurred to, as authority that the Cambridge estate which came by him to the college as above, was in part held ( under a *still subsisting* annual payment to the crown) by the family of the Dunnings up to Hervey [Fitz-Eustace, and father of Eustace] Dunning, sometimes stiled

(5) And yet still more to distinguish these houses of stone, as more than the rest exciting to it: the very evidence of this bed-establishment *in the one* as a house of perpetuity, for and *by means* of the then proprietor and occupier *of the other* as a private possession thereby to be relieved, is here, ( as after *from* his family transferred with THIS the other *to* the college ) at fullest length recited.

B. 1. 44. Omnibus Christi fidelibus ad quos presens carta pervenerit. Antonius magister hospitalis Sti Johannis Evangeliste Cantebrig' & ejusdem loci fratres salutem in Domino. Ad universitatis vestre notitiam volumus pervenire nos concessisse & hac presenti carta nostra confirmasse herveo fil. Eust' & heredibus suis in perpetuum duo grabata cum pannis ad illa necessariis ad opus infirmorum in domo nostra lapidea. Et ad hec in perpetuum sustinenda dedit nobis predictus herveus septem acras terre in campis de Cestreton de quibus cartam suam nobis fecit. Et ut hec nostra concessio rata & inconcussa in perpetuum permaneat hanc cartam sigilli nostri appositione roboramus. hiis testibus Robto Sem. Adam fil. Eust' herveo Clerico. Mych. fil. Ejus. Tom. fil. Joachim. Rad. fil. hamun. Hnr. Vivian. Augo ruff. Rob. de Sto Edmundo. Willo Pilate & aliis.

The seal is very perfect; its form oval, 1 inch and  $\frac{3}{8}$ ths, by 2 inches and  $\frac{1}{4}$ th: the device of it an eagle with a cross in the uplifted wings of it: the inscription  
 ✠ SIGILL. OSPITALIS. S' IOHANNIS DE CATE.

Hervey



Hervey of Cambridge, and by him *ex antiquo, successione antecessorum suorum*: that other part was *ex eadem successione, de herede in heredem usque dictum Herveum*, and held of the earl of Leicester *et modo de domino Edmundo fratre domini regis* [Edw. I.]: and that the part particularly in question, the *domus lapidea cum pertinentiis, erat de antiqua corona regis, et quod Ricardus* [son of the last Eustace] *Dunning ratione longe seifine sue a conquestu gauderet ea.* Inquis. f. temp. Edw. I. (6)

SUCH then being the evidence of their possession; and therein of this building, as otherwise than for any local, publick and particular use of either learning or religion thought of; till Walter de Merton upon his very large and liberal plan of academical foundation acquired it: — to him now, in some sort of continuation, to have recourse in his acquiring it.

BEFORE the founding of colleges, or, which is the same thing, perpetuating houses of scholars in the universities (7); they, from the very want of these firm and fixed foundations, as well as of that

(6) In supply of the year omitted as above, we seem to have it in the general inquiry then making at Cambridge as well of the possessions of Bernwell priory and St. John's hospital, as of Merton college, viz. the third year of king Edward the first; as to be seen in the before noticed histories of both those places; and besides this date, as from each return of the jurors at Cambridge, we further have it in that for the possessions of the priory p. 69. that "the said canons have also by the gift of *Dunigg*, [Dunnig], great grandfather of Hervey Dunigg, and Maud his wife, 50 acres of land on the other side of the bridge:" this to all appearance being a concurrent assurance of the *ex antiquo successione de herede in heredem usque dictum Herveum* as above: it going back to the third generation at least from our Hervey. And this earlier grant might possibly lead to the subsequent intercourse between the priory and descendant Dunnings as in the above account.

(7) To look back to our universities in the rise of them: each seems to have proceeded from an increase of schools and scholars in the place of their promotion: and such



that otherwise better and more orderly course of things which succeeded, were without much of the stability which was afterwards acquired by them. And it is among the professed purposes of some of the earliest of these establishments, that they were *ad sta-*

such place the more frequency it had of them, being the more generally frequented; through a conflux of scholars it became a place of general study; and as a general study it had so great a conflux of them, as besides the masters of particular schools and scholars under their proper ordinary, to require an interior prefect or master of all of them, (considered as one universal school, or combination of schools and scholars) as well as a convention of the other masters, for the necessary and scholastick purposes of regulation and graduation: the scholars first, (i. e. the masters and scholars) and the schools afterwards, under such good and auspicious conduct, obtaining their now long obtained name of university.

As such then become of consequence to the state as well as to the church, and with many, from each of these two great schools, informed and fitted out for both; each of them obtained a civil ability, by civil aid and immunity, superadded to its ecclesiastical. And from the date of such civil interposition by notorious acts of grace and favour and from the records made of them, its history becomes not only the most material, but of necessity the most authentick likewise. That each of them with more and more of independence and exemption from exterior jurisdiction civil as well as ecclesiastical, obtained more and more of a civil authority within the place of its existence, remains conspicuous as well in what it now is, as in what was so materially recorded of it as not between contesting parties to be at all likely to be either overlooked or forgotten. But then at what time and in what manner the scholars of Oxford, we will say, from a scholastick and so an ecclesiastick *universitas scholarium in municipio Oxon.* were advanced to be a civil corporation of chancellor masters and scholars *universitatis Oxoniensis*, is a matter not yet adjusted; nor perhaps, from the no very candid nor creditable strivings and contentions there have been about it, at all likely to be so: though there was as surely a time when they were not a corporation in the sort and sense they now are, as that now at this time they are such.

And in regard to that time, though it has been understood from Mr. Wood, that long before the founding of colleges, the university of Oxford received lands, and made the same common use, [civil as well as clerical] of the same common seal, which is now made of it; yet it does not appear even in his account of things, that there was any such taking of lands prior to William of Durham's benefaction to it in 1249. There was none certainly for Alan Basset's, as before and again referred to, under the year 1243. But a deed indeed there is under this seal, SIGILL. CANCELLARII



*stabilimentum universitatis*, whichsoever of them they had place in. But still the universities not being then so established, and it being perhaps beyond all expectation that they would be so established by them, as to become, in the manner they have become, the great

ET VNIUERSITATIS OXONIENS. for settling the above benefaction of 1249 so early as in 1220; and which as being near thirty years before the university's concern in it, does not add much to the credit of the use of this seal in earlier instances: but leaving the deeds of earlier date with impressions of it to those who have seen them; the seal itself in its inscription, device, and execution, seems to be of later date than that of either deed it is found by Mr. Wood to be affixed to: and with some it will certainly be a difficulty, that it should be found in use once in Rich. I. time, and once again in 2 John. and then not in any creditable use for seventy five years after: a no small chasm, considering the so much more growing and advancing state of the university; and the occasions of so much more real and apparent call for it as are to be found in the history of that period. See moreover in Mr. Smith's Annals of University College p. 202, what occurs of this seal and of the least remote and most inspected of Mr. Wood's two evidences of so early use of it. And to see how vouchers may not only mislead in themselves, but likewise in the misreport of them, compare the whole extract of *incorporatæ & incorporata &c.* as in Mr. Twyne's Apology p. 265. with that of *memoratæ & memorata &c.* as in Mr. Wood's reading of it in Hist. & Antiq. I. 128. Indeed it seems to have been choice in Dr. Ayliffe, that made him after seeing the one, notwithstanding refer to the other, as in his second Vol. p. 103.

And in looking still further, the city of Oxford, upon a fair comparing of its history with that of the university as now laid open to us, seems to make earlier show of its privileges by charter &c. than the university included in it: which, though not less likely to preserve its muniments, or retain the notice of them, for some several reigns after the conquest, has not evidence of being more in a civil capacity, than such a general conflux of scholastick persons, as has before been set forth, united amongst themselves and under proper rule and inspection for the purposes of learning in and within the municipium or corporation of the city: the crown itself even when first interposing on the scholars behalf, not doing it (as by the records we have recourse to) in the way of added authority, and by enabling grants to them; but in the way of protection and accommodation of them, by orders &c. to the city and other officers, for their greater ease, advantage, security and relief. After this indeed it is not long before the commencement of grants &c. (as now extant) made immediately to the university itself: and the progress of them became so rapid as soon to set the university as a body, and in its corporate capacity above the city: it being found in the state the place was then come



great universal and comprehensive establishments of the many other very noble fixing and fixed ones as now within them, and which they now consist of; provision was made by the earliest benefactors and founders for their benefactions and foundations accompanying their scholars to any place either they or their university might be removed to: and this in the most momentous instance (8), was done by the founder of Merton college, as establishing it in 1264, and 1270, *ad perpetuam sustentationem scholarium in scholis degentium Oxon, vel alibi ubi studium vigere contigerit*; and then afterwards in 1274, ordaining that no unforeseen translation of them to any other place of habitation should

come to, that the body of superior knowledge and greater consequence upon all accounts, and that by which the other very greatly subsisted, could not be upheld as it ought to be, but by the privilege and preheminance that were necessary for it, as well in itself as in respect to the other; and which therefore in almost every age and reign, as occasion shewed itself, were constantly and successively imparted. The ill behaviour and inhumanity of the town in the latter end of the reign of king John, seems to have been the leading step towards fortifying the university with this succession of privileges and superinducing a civil authority and jurisdiction in aid of what it at first had perhaps only of ecclesiastical.

And in this order of things it should seem that in Cambridge likewise, the university grew up in the town, rather than the town in the university: not but that others make it otherwise as well there as at Oxford: but let us attend to Dr. Caius as in his Hist. Cantabr. l. ii. p. 117, 118. *In urbe vero duo hominum ordines sunt: scholares et mechanici, sol, hoc est, atque tenebræ. Scholaribus & suis præest Cancellarius, mechanicis & suis, prætor oppidanus. Scholarium ditio Academia dicitur: Artificum, oppidum nominatur. Ita hodie divisæ potestates hæ sunt, quæ olim unius tantum erant ditionis Academicæ, quo tempore civitas scholarium dicebatur.*

(8) For one of earlier though of lesser note, see again in Wood's history under the year 1243, of *Alan Basset's* legacy of two hundred marks to the university, committed to the prior and convent of *Bicester*, for perpetual exhibition *facellariis seu Scholaribus* binis qui nimirum in *Academia Oxoniensi* agerent (*aut alibi\* ubi studium fuerit Universitatis in Anglia*) quique pro animi dicti *Alani* conjugisque suæ, preces ad Deum effunderent. \* *Hoc fuit propter metum translationis Studii Oxon.* See likewise under the year 1249, in his English MS. history of the privilege obtained from Rome by the Cistercians,

that



should injure them in their rights and possessions, provided, and so long as, they adhered to the intention of that their institution. And now to accord this to the present purpose:—Cambridge being a place to which the scholars of Oxford had upon emergency resorted, and Merton hall, as acquired in 1269-70, being such a site as might then be thought capable of being made accommodate to those of this their founder on any other occurring occasion; might not he who had lived in the time of such commotions be the more inclined to the acquisition on account of the situation? University education was essential in his design. And it was that Oxford was a university in the earlier mode of it, that the scholars of Merton were originally and professedly placed in it: and then the manner of that placing them seems not to make *against*, whatever it may *for*, the securing them a place for retreat or not, as there might be occasion, in any other the most like or of nearest affinity to it. Neither does the *thereupon* providing for them THIS place in Cambridge seem in any degree to make *against*, to whatever degree it may *for*, its then being such: nor this, nor the other endowment in the county which Mr. Wood speaks of, being at the time he supposes acquired for them. And indeed of his excess herein, it appears from some qualifying words after inserted in his still remaining English MS. that he did not continue always and altogether insensible. (9)

BUT

*that they might frequent the scooles of Parys, or any place else where the universitie or universality of scholars flourisheth.* And to these, if occasion were, some later instances might be added.

And here it cannot but again occur, that though the above benefaction was to the university; the exhibition was not (as in the six years after instance of William of Durham's) invested in it, but in a religious house, as a house of establishment, to support the perpetuity.

(9) He is under another sort of mistake in regard to another date; without the rectifying of which, no true nor in any degree consistent account can be given of the foundation of the college, of which he is speaking.

There



BUT whatever was the intent of this provision, it happily has not been wanted for the scholars of Merton, in any other way than that of allotted support for them; and though it might seem on their being fixed at Oxford beyond all thought of removal, that either the structure or its site in such a place as Cambridge might

There unfortunately happens to be in Merton college treasury, a kind of exemplification by the founder, or very fair copy, under his later or episcopal seal, of his last foundation charter and statutes of 1274: the said exemplification or copy of his said charter and statutes being (to suppose the best of it) wrong dated 1267 instead of 1276. For to let alone its general incongruity and discordancy to its earlier date, it styles king Henry III. *late* king of England, four or five years before by demise he became such; and it is sealed with the episcopal seal of the founder, some seven years before he was a bishop, and had any such seal to seal with. It happens likewise that the last charter of 1274 being the rule of conduct and statutes in use, the two other preceding and parent charters of 1264 and 1270, with what was done by and under them, (though essential to a right apprehension of the foundation and constitution of the college) have been but very little seen, and still less known and attended to. But it being known and attended to (this being clear from publick and undoubted records) that there was a house and company of scholars of Merton in the very place where they now are, so early as in the year 1267; and it not being sufficiently attended to, that this was in consequence of the first charter in 1264; (the express design of which was to establish such a house of learning in Oxford under the support of *their* house of maintenance at Maldon) this wrong dated copy or recognition (of the last charter of 1274 by which the *warden and brethren*, till then at Maldon, were finally fixed in the house at Oxford) has without its being seen how little it accorded to the earlier date of it, been taken by Mr. Wood and others as well before as after him, to be a distinct and original settlement of the college here in 1267; by a removal of *all the incorporated of it*, as till then by them supposed to be at Maldon, hither at that time. Whereas the *scholars* being here in consequence of the first design, and as soon as accommodation could be had for them; *the rest* of the foundation, or warden and brethren part of it, who were to manage the estate of the endowment and provide for the scholars; were then at Maldon as the seat of such estates and provision, pursuant to the same design: and were likewise continued on at that place by a further and more enlarged charter of added members and endowment in 1270. After which the founders views and concerns not being so restrained to Surrey as before; and it being soon after seen that both his ends, of academical learning, and predial and other œconomy, might be very compatibly and better and more amply answered, or carried on, by the same sets of persons, at one and the same place, within the university; the founder



might, in the course of time and advance of the university, be in some way or other turned to the use and accommodation of it ; yet in general it is found to have been in the hands of the college-bailiffs, or tenants and farmers ; at first by the old stile of the Stone house of the college, and their manor in Cambridge ; and then as soon at least as 29 Edw. III. 1355, with some addition, *their Stone house called Merton hall* ; and for the repair of which, and

by his last charter, bearing date in August 1274, happily and under every care and caution, sanction and security, civil and ecclesiastical, there finally fixed and established his whole foundation.

More than the thus rectifying of this date should not be attempted perhaps, even in this less public manner, but by a Lowth, a Blackstone, or a Warton. This founder and foundation, from the times, circumstances and situations at least, of both ; more than any other, it may be, not only deserving, but requiring, the hand of a master ; some *such* constitutional, academical, ingenious, and very literate professor. So far forth, however, as just to shew the founder of this college first in the design, as well as in the execution, of a college ; his design and execution may be here no less briefly than privately adverted to.

His college then as *the* example, and therefore *without* example, in the founding it, was not made such as it now is, but by a progression from its first charter of creation in 1264 ; to its second of enlargement in 1270 ; and to its third of completion in 1274 : each of the succeeding charters, under the prior reserve *augendi, mutandi, et corrigendi*, referring to and confirming, instead of cancelling or annulling, the preceding. The same corporation therefore, however enlarged or diminished, separated or united in the parts of it, has existed, without any dissolution of it, from the beginning : which is not the case of other colleges founded and refounded by a one foundation being abrogated by another. But in this particular case ( and why so particular both in matter and manner but from its precedency ? ) no one of the charters was, or as they now stand could be, cancelled or given up ; and duplicates of every one of them are still remaining in very good preservation under the great seal of the king, and likewise under the seal of the founder.

Add therefore, to this general view of these gradual advances in the work of foundation ; something more of the *how*, and *in what manner*, it was conducted and carried on ; and then see whether there be nothing in the time and circumstances of a first foundation, nothing of an original propriety and peculiarity in the acts of it, to show it such.

For



and by the same name and description, the college agree to give to two stone-cutters 32<sup>li</sup>. 13<sup>s</sup>. 4<sup>d</sup>. 48 Edw. III. 1374: and by that style and name of *domus sua lapidea situata in villa Cantebr. vocata Merton-ball*, the said place with its appurtenances was conveyed by the college to the chancellor of the exchequer and the chancellor of

For how little soever the difference may be now thought of, the founding a college, or perpetuating a house of scholars in the universities, was not so obvious in the first instance, as it became in the succeeding ones: it being rendered to be sure a very different question in the latter; how a house of scholars, such as our present colleges, was to be perpetuated therein? In looking back therefore to our first foundations as to colleges in the rise of them, the very mode of founding may perhaps shew which was the first of them; and of course *whose*, and in some degree *what*, was the merit of first introducing them into the universities.

A house of perpetuity then being intended; the time and circumstances under which it was intended, together with the very mode of perpetuating it, is to be inspected: and in proceeding upon it as the first, and to see whether it was the first, either in intention, or completion; the matter, though with much less of order and explanation than is here wished it, may be taken up as follows.

Houses of scholars *in perpetuity* in the universities were preceded and made way for by such houses *pro tempore* only; in which, before the building of colleges either secular or monastick, or other advances towards them; great men and communities, churchmen and religious houses more especially, supported scholars at discretion, for the purposes of religion and learning, in church and state: and such discretion being in a way of more certainty and continuance amongst such bodies as continued, seems to have given the suggestion to single persons also, to render their donations still more continued, by means of such abiding bodies.

Hence then the giving to religious houses in perpetuity became the first and most obvious mode of exhibiting to scholars in perpetuity. And though this was done in the smaller instances as before taken notice of; Walter de Merton is the first we know of, who thought of it in sort and degree as he thought of it and was providing for it: he having obtained of Richard de Clare the then great earl of Gloucester, as the chief lord under whom he held his estates of endowment in Surrey, a license, bearing date in crastino Sti Johannis ante portam Latinam Anno Domini MCCLXII<sup>o</sup>. to give and assign them to that house of continuance, in the place of his nativity and from which he had his name, *Domui de Merton*; the priory in which *he* was educated, and near to which



of the university of Cambridge for the new foundation of King's college there, 22 Jul. 24 Henr. VI. 1446. but within eighteen years after it was restored to Merton college 3 Edw. IV. 1463.

In

which *they* lay; ad perpetuam sustentationem [of a house and company] clericorum in scolis degentium, et se studio in eisdem salubriter applicantium. But, two years after, advancing in his design of perpetuity, he relinquished this support; and under a fresh license of the then earl, and by authority of the then sovereign king Henry III. in a way not only *new* but *singular*, he provided for them by other sort of *religious*, in a house of perpetuity and sustentation of *their own*: on this change still showing his gratitude and respect for the convent, by desiring his promoted scholars to show theirs, as well to the convent as the college; and with a noble humility, not to be seen but in those who act upon his motives, complimenting away the name from himself -- Domui insuper de Merton a qua nomen sortiuntur grati semper sint, et eam utpote hujus operis adjutricem studeant honorare. Charter of 1264.

To look then to *this work* of his erecting his own chief manor seat and seat of his endowment at Maldon, into their college-house or seat of foundation and support; and his proceeding thereupon.—The whole endowment being at that time there and thereabout, and all as in the usage of those days in hand; and under the care, culture and management of bailiffs and other necessary persons; and it being seen that in some of the *loca pia* (and in Walter de Merton's own very early foundation at Basingstoke in particular) the ministration and administration was, under a head of some sort and denomination, by brethren; viz. ministers of the altar, and others though lay *et pro terris excolendis*, yet *religiose viventes*; he proceeded, upon this conjunct idea of a predial and religious œconomy, to the raising and compounding a *religious* as well as a *learned*; a *supporting* as well as a *supported* house of his own; by uniting and incorporating scholars, apart from these rural engagements *et in scolis studentes*, with a warden and brethren; such brethren as the above ministers and others that were wanted, upon the said manors and in the said house, for the support of all: the scholars of this house of scholars, *whose* name it bore, being the declared proprietors of it; and the others, the warden and ministers as therein placed for them, were therefore placed in it under their more immediate visitation and scrutiny; and with express declaration of *their* being the *procuratores et ministri* of the former.

By the next charter of 1270, great additions were made to the endowment by estates in Oxford and Oxfordshire, and a great variety of other counties: and the scholars in the university were not only increased by such additional endowment; but with more interior persons there were exterior ones, as by the said charter, appointed to the necessary care of it; and so together with a more comprehensive, there came to be a more divided, use of the term *fratres*.

And



In Leland's Collectanea Vol. ii. p. 440, it occurs by the name of *Schola de Merton*; but whether from Walter de Merton's, or any later designation of it, is left to be collected. Somewhat sooner however than Leland, in the use it was put to, it appears to have been entitled to such a school-appellation, if it was the place as has been related, where Erasmus read lectures on the Greek language in the university. After Leland, from, or instead of, *Aula de*

And then, in four years more of experience, it being seen that the estates in Surrey might be ordered as those in the other counties by exterior stewards and bailiffs, with the name and perpetuity of brethren imparted to them on a due approbation of their conduct; and the college be in all points advanced and advantaged, by a transfer of the warden and his ministerial brethren in the house at Maldon, to the house for learning, as then so much transcending it in fame and greatness at Oxford: they all on this view, and these brethren under the circumstance of the college church at Oxford being made the place of their future ministration, were, by the third and last charter in 1274, brought into the house at Oxford; but though brought into the same house, they were distinguished as before, as of a different sort and division, entertainment and place of it, from its earlier scholar inhabitants. In time indeed these first and original brethren, as, together with the scholars, decreased in number, came to be very much upon the footing of the chaplains of other colleges: and in much earlier time those exterior and inferior brethren, the *ballivi*; from their statutable dependance upon the college as brethren of and for the college; upon the estates in hand being turned, as they very early were, into estates upon lease; became much more independant on it as *firmarii* for themselves and on agreement only: and this indeed to a degree which quite superseded almost all that we meet with in the statutes about them. And so it was that the old and original style, as well as the reality, of this peculiarity of *scholares et fratres*, as here looked back to, determined, as it took place, in this incorporation, because it was very peculiarly the preceding one.

And as *with* the scholars of this college of scholars of Merton, brethren were as above conjoined; so to the brethren of St. John's hospital in Cambridge, it has been seen, that so late as in 1280 there was, as by Pat. 9 Edw. I. an *adjoinction* of scholars, *qui secundum regulam scholarium Oxon. qui de Merton cognominantur* in universitate Cantabrigiæ per omnia conversentur. But this lasted only four years; and the scholars being then taken from the hospital, were formed into a college, like every other succeeding one, either in Oxford or Cambridge, of *scholars* only. And this peculiarity moreover was of that exterior kind and extraction, that instead of any after founded college being

L

conformed



*de Merton*, and *Schola de Merton*, it came to be more commonly called the *House of Pythagoras*, and *School of Pythagoras*: and there are those who, from the antiquity of the name, thus lately attributed to it, are for deducing the antiquity of it as a school or house of learning, in this right ancient seat of it: Londinensis according to Mr. Twyne, p. 25, being at the least a promoter of the

conformed to Merton in this respect, Merton in the course of time, we see, became so conformed to other colleges, as to have lost even the remembrance of this great peculiarity. But then as this in every form and stage of the college incorporation was clearly the old, original, and statutable constitution of it; away to be sure with the remembrance went the earlier effect of it, not only as a constant memorial of priority in the rise of it, but as a constant key to the better expounding whatever belonged to it, in every age, as well as stage of its being had in remembrance.

And yet whilst such were the members of this the thus compounded foundation, as with this their distinction to have, and retain, their peculiarly primitive and distinguishing style of *scholares et fratres*; it is not to be overlooked that the college itself, as in the first and general intent of it, a house of incorporation for scholars and for learning, and comprehending and including the house of scholars and of learning, never bore any other name than that of the scholars, it was the college, and they were the scholars, of: the style of incorporation in every charter, and on the common seal, as now in the college, and which it is seen to have had with the first of the charters, being that of: DOMVS : SCOLARIVM : DE : MERTONE : only. But to vary this order, and begin with the college:—though as a college of scholars, Merton college, like the colleges formed after it, had, from the time of its incorporation in 1264, its name from its scholars only; utpote quorum nuncupatione *Domus ipsa* (as of and for them more especially established) nomen fortitur: as in both the charters of 1264 and 1270: yet as made up and consisting of two parts, or two sets and sorts of persons: 1. *scholares in scholis*: et 2. *fratres in maneriis*: so in difference to the others, it had both of them, instead of only one of them, for some time usually included in the more formal and additional style of the persons it was composed of; *necnon et scholares et fratres ejusdem domus*: the *fratres* at Maldon not being discontinued with the house at Maldon; but the chief of them transferred, on the discontinuing it, to the scholars and the scholar house at Oxford. And of these brethren and their distinct condition, as well in Oxford, as when at Maldon, see, in particular (as deduced from the two preceding charters) the statutes of 1274, cap. 28. *De mensa custodis, et ejus commensalibus*. et cap. 33. *De custode, &c. in senectute quomodo provideatur*: the warden, as before, still having these brethren commoners with



the conceit, of its being the very place where this philosopher exhibited himself, and taught in Cambridge. He refers to his *Hist. Cantabr.* ed. 1574. See likewise Mr. Carter's *History of Cambridge*, p. 17. Others, however, as seeing this more for ridicule than reality, have been content to have it called by his name, as the house of his sect or school of his philosophy in Cambridge: or, as even less secure of this, and to make the matter still more easy, only because the building, in the form of it, might some time perhaps have resembled a Y, his beloved Letter: and in this way of naming it from the resemblance, and with rather more perhaps in the remains to credit it; its very undercroft might not possibly

with him: and the warden, as before, under any disability, still being alike provided for amongst *them*. And as in and from the very first year of the first of these three charters, there were grants and appropriations to this old corporation, with all the after effect and endurance of those of a later conferring: so these earlier grants and appropriations concur with the charters in showing, as well the actual continuance of the corporation, under all its diversity from 1264, as its actual existence, in that year.

To conclude this long note therefore:—Let the particular state of the college endowment as at first and last disposed; and the *pia loca*, their predial œconomy, and the way of sustaining scholars in the universities by them as religious and abiding bodies; be looked back to, as then only before the founder for his direction: and there is nothing in his combining and dividing *scholars and brethren* as at first in separate places; or as afterwards in one place; but what may seem very naturally to have arisen out of the times and circumstances of *his* doing it. But in either way it may hardly appear so, if taken to have been posterior to that still more simple mode of founding colleges of *scholars only*, which in every other instance it led the way to; and in the course of time this very instance was itself accommodated and conformed to. And nothing surely can be more likely than that in the first founding, and founding to so great advantage as in this first instance, there should be a peculiarity and progression, a union and distinction, in the doing it, which should discover such a feeling of the way as to denote the priority. A something of internal which in addition to the exterior evidence of a dated priority, should enough insure, to its deserving author, the merit of the achievement of a foundation so leading and completed in its original, as to give decidedly and invariably the essential of every of those after foundations founded as colleges in the universities; and as now from this example almost universally forming the universities.

have



have had its share in somewhat imaging, if not his school at Samos, at least that more cryptick cave in his house at Croton, he shut himself up in. But in respect to his partiality for the first of these ancient models as from Dr. Fuller, Hist. of the univ. p. 27. see the Dunciad, Book IV. v. 151, and note.

When Reason doubtful, like the Samian Letter,  
Points him two Ways, the narrower is the better.

THE letter Y, used by Pythagoras as an emblem of the different roads of Virtue and Vice.

*Et tibi quæ Samios diduxit litera ramos.* Pers.

MOREOVER and in the way to this, Dr. Fuller (in his History of the university) styles it *Pythagoras his House*, and places it the 29th on his general list of such Hostles, or Houses of learning in Cambridge, as received scholars under the rule of a principal, before the colleges were endowed in the university: they are thirty four (10) in number; some for Civil and Canon Lawyers, and the rest more generally for Artists and Divines; and of all he thinks Trinity Hostle for Lawyers the last which had students; and that not later than the time of Henry VIII: and as the only one of

(10) These for magnitude Dr. Fuller opposes for multitude to the two hundred Oxford Halls of Mr. Twyne, (since advanced to three hundred by Mr. Wood) and instances from earlier writers four of the Hostles for Artists as having therein twelve, twenty, and sometimes thirty Regents, besides *non* Regents above them, and young Students beneath them. And as for the Hostles designed for Lawyers, he saith, almost every one of them had fourscore or a hundred Students. There were only seven of the ancient Halls remaining in Oxford, when Dr. Langbaine published his accounts of the universities, in 1651: and yet to these seven (to be sure neither the least, nor least advanced, as so remaining) there then according to him belonged, or were *therein*, seven hundred and sixty five students besides their principals. Nine only of this number were in Gloucester hall (now Worcester college); and two hundred and twenty were in Magdalen hall.

them



them still remaining undemolished, the Hotel or Hall denominated *Pythagoras's* School is mentioned by Mr. Salmon in 1748. Mr. R. Parker, indeed, in his *Σκελετος* Cantabrigiensis, 1622, and referred to by Dr. Fuller, uses the name House of Pythagoras, and Schools of Pythagoras ; but without any derivation. He places it however among the Houses of Philosophers and Divines, *Hospitia Artistarum & Theologorum* ; the first of his two divisions or classes of the more early and antecedent houses of learning in Cambridge, [ as all comprehended under the general style of HOSTELS ] ; the *Hospitia Juristarum* [ Canonists and Civilians ] & *Theologorum*, being the other. There is a like distribution of the university into ARTISTS and JURISTS singly, in the History of it at the end of archbishop Parker's book *De Antiquitate Britannicæ Ecclesiæ*, 1572 ; as by Doctor Drake edit. 1729 (11) : but in neither of his lists of their ancient houses, nor in the still earlier one of colleges

(11) In the second page of this edition of this history, the archbishop thus refers to Dr. Caius's history of Cambridge, as a preceding, though it is an after dated, publication : Verum de origine, antiquitate, statu, ædificiis, cæterisque tam Academiam quam urbem Cantabrigiensem tangentibus, consulat lector magistrum Johannem Caium clarissimum medicum, collegii Gonevilli atque Caii nuper magistrum, in libris suis de antiquitate & historia Cantabrigiensi a prælo nuper divulgatis ; a quibus copiose sumere potest, quæ ex permultis veteribus monumentis ad utramque sunt referenda. For though this Dr. John Caius published in his lifetime his two books *DE ANTIQUITATE* Cantabrigiensis Academix, 8vo Londini, 1568 ; his two books *HISTORIÆ* Cantabrigiensis Academix ab urbe condita, were not published but at the end of the 4to and enlarged edition of the former, Londini, 1574 : this edition, as left enlarged by the author, being put out the year after he died (29 Jul. 1573.) under the patronage of the said archbishop. In respect therefore to the above appearing anachronism, see Dr. Drake's preface to his edition of the archbishop's book, and likewise what occurs under the name of M. Parker, in *Bibliotheca Britannico-Hibernica* of Bp. Tanner. Dr. Caius's history then, under the handsome preference as well as precedence which is thus given to it, is not any more than any other to be passed by, without in some sort noticing that there is no such house or hostel as that of Merton hall, or house of Pythagoras, in its list of hospitia ; such list under that general word including all the



colleges and other houses in Cambridge before the reformation, as to be found with those of Oxford *ex tabella* Joannis Rowse, in Leland's Itinerary, vol. IV. p. 158, &c. edit. 1744, is the House of Pythagoras included: and upon the whole of the evidence, there cannot but be a doubt of its having ever been of the sort or number. Mr. Carter indeed, in p. 17 of his History, 1753, places it the 6th and last of his religious houses, as formerly in Cambridge; but upon what authority, so differing from the above his predecessors, does not in him appear.

THE very distinction or division, as in the above-mentioned lists, seems to point at the learning for fame and advancement heretofore in request in the two universities; and the number and proportion of houses for *legists*, which succeeded the introduction of the Roman laws into this kingdom, to shew alone, and at once, their prevalence in the church, as in these the schools thereof, without further history of them. And that as they rose, so they to a great degree sunk, with the Romish jurisdiction in it. And the faculty of physick seems to have been brought forwarder than it before had been, not only from the then lessened occasion, as well as encouragement, for so great a multiplicity of divines and lawyers; but likewise from the good and beneficial institutions by Lynacre and Victoria, &c. about that time set on foot for this other profession, and the more regular proceeders in it.

THE bare mention, as above, of the sometime alienation of this place from Merton college in Oxford, to King's college in

ancient houses of Artists and Jurists, whether hostels, inns, &c. and without any distinction or division of them, as to which more particularly appropriated. In speaking, however, of the ancient schools which succeeded to the first hired ones in private houses, Dr. Caius thus generally distinguishes and divides them. *Tandem tamen scholas proprias eò loci ubi nunc scholæ novæ sunt, Academia acquisivit, quas scholas philosophiæ, et juris Civilis nominarunt.* Hist. Cantebr. lib. 1, p. 80.

Cam-



Cambridge, might have sufficed, but for Mr. R. Parker and others making the very reverse of it; an alienation from King's to Merton: and Dr. Fuller, though better informed by Mr. Twyne in this respect, not having, as he himself apprehended, all the information that he wanted in his account of it; as in his Church History, Book iii. S. iii. 7. "Amongst the many *Manors* which the first *Founder* bestowed on this colledg, [sc. Merton] one lay in the *Parish* of St. Peter's and *West suburbe* of *Cambridg*, beyond the Bridg, anciently called *Pythagoras house*, since *Merton Hall*. To this belongeth much good Land thereabout (as also the *Mills* at *Grantchester* mentioned in *Chaucer*) those of *Merton Colledg* keeping yearly a *Court Baron* here. Afterwards King *Henry the sixth* took away (for what default I finde not) this *Manor* from them, and bestowed it upon his own *Foundation* of *King's Colledg* in *Cambridg*. But his *successor*, *Edward the fourth*, restored it to *Merton Colledg* again. It seemeth equally admirable to me, that *Holy King Henry the sixth*, should do any wrong, or *Harsh Edward the fourth*, do any Right to the *Muses*, which maketh me to suspect that there is more in the matter than what is generally known, or doth publicly appear." For what precedes, see Bryan Twyne, p. 319: Caius. Hist. Cant. Acad. p. 68: and for what follows of this transaction, see a MS. note by Mr. Wight, in the college copy of Fuller, as from the college evidences.

Now though in this Dr. Fuller comes much nearer the fact than some who have followed, as well as preceded, him, yet he is still more right in his suspicion, that even this is not seeing to the bottom of the matter: Merton college not being deprived of this their estate under colour of any default, but by great importunity prevailed with to convey it to the King's pleasure, 24 H. VI. and upon his license, in exchange for his manor of Margaret-Stratton in Wiltshire: yet with a proviso of revertibility to the  
said



saïd college in case of disturbance in this their new possession. "So that when by the acts of resumption, made sometime after in this king's reign, all the lands which had been given away by patent (and this manor of Stratton amongst the rest) were re-invested in the crown; the college put in their plea for the recovery of their former estate, and after some trouble and charge, obtained it by due course of law: King's college finally releasing and quitting all claim to it; &c. 16 Jan. 3 Edw. IV. 1463; as by the evidences of proceedings in the aforesaid exchange and recovery; and which, with the others of other release, as thereupon and under common seal in 4 Edw. IV. severally had from the colleges of St. Michael, Clare, and Corpus Christi, and the hospital of St. John, are carefully preserved amongst the deeds of the Dunning conveyance of this estate to its long before therewith invested proprietors, Merton college: *a college* so, and so long before, established in the foundation of it, as not only for a long time to be looked up to as the leading and introductory one in both the universities; but moreover as for a long time surpassing every thing of the kind that was in either of them; and even after the foundation of King's, it continued of such renown, as, in addition to the many honourable testimonies of it from preceding princes and prelates, to have *this* from the great and royal founder of that magnificent college the very next year after his full foundation of it *as in Pat. 22 Henr. VI. 1444*, now, with the rest, under seal, in the treasury of the house adorned by it. Collegium illud, cujus sancta statuta, ceremoniæ, ac religiosus sociorum convictus, in aliis regni nostri utriusque universitatis postea fundatis collegiis celeberrimis, mutative, velud ymago in prole, relucet. (12)

(12) The rise of the universities, and, from the very nature of it, the rise only, and without the date of it, seems discernible in their both alike *ecclesiastically* originating, in their fewer and lesser schools growing up into more and greater, under license and authority of their proper and respective ordinaries: this;—the origin only, and not



not the date, being enough deducible from natural and constitutional growth, and from real and remaining information.

But then our colleges not becoming such by growth and enlargement, there seems nothing wanting, for the judging of the times of *their* foundation, but for the different and differing societies to produce their evidences of foundation, and of what they intend by foundation, i. e. *college*-foundation; (it being a word no less unequally, than variously disposed of) and then to join in a fair and equal adjustment, of the how, and how far, and to what degree; and in what sort, sense, and respect; and on what account or accounts; they claim the priority: and of the how, and how far, and to what degree; and in what sort, sense, and respect; and on what account or accounts; they either deny or concede the priority. And till this is done in far other mode than it has yet been done, the above royal commendation may very well be adduced, as seeming to respect the two universities as having their colleges alike formed upon the Merton, and a no higher than the Merton, model; and though other and more extraordinary notions in regard to the university of Oxford and University college, were then introduced and introducing into them: it seems not a little to favour, as well as to be favoured by, these the following among other the more obvious and less extraordinary oppositions to them. viz. That houses were before halls and hostels, and halls and hostels before colleges, and that as well in the one university as the other. That four hundred years made a more than ordinary difference and distinction in the bringing forward of the latter. That all of them in general, as then in being, appeared of later rise, of nearer growth, and more quick succession. That the first of the many single tenements University college was afterwards deduced from, as purchased by itself in 1332 for the four university scholars of William of Durham, could not alone and of itself be seriously looked up to, as the real and royal site of the whole seventy-eight, or three twenty six's, of king Alfred; as then (at the time of this patent in 1444) very lately compacted into one college by Witton: and though not then, not a great while after, seen to be better divided into three by Rofs. And that even in this divided state, (as again in turn reverted to, after the again compacted one of 1566,) no one of the sites, as by him or from him intended for either of the three, was such as might with any tolerable credulity be attributed to such a founder and for such a foundation. And still after this, that site alone, i. e. sameness of site, did not infer sameness of foundation, and render the succeeding as old as the preceding: or else on full as clear acquisition of like presumed site, why should not Brasenose college alike distinguish *their* RESTORERS? And then in regard to every early founder, whether in this or any other instance, that it was not matter of opinion but of certainty, that though the *where withal* of one college might in some sort precede the actual foundation of another, it might nevertheless be formed after it, and in the way pointed out by it. And that though there might be an instance wherein it might be suggested that an earlier perpetuity was intended than effected, (the same indeed being both evidence and acknow-



ledgment that *the house*, as not then perpetuated, was not then a *college*); yet that such suggestion was far from being evidence, or even inference, of either a more early, or more adequate intention, than that which had been so effectually pursued: it not being but by a gradual and progressive intention, denoting the originality which made it such, that Walter de Merton effected the example then wanting, and afterwards no less easily and speedily, than constantly, proceeded on. And finally therefore, that however entitled to precedence, University, or any other college, might be upon any other account, it could not be upon the only material account, that mentioned in the king's patent, priority of example: Merton college as formed and completed in 1274, (with about twice its present number of fellows and chaplains, and upon a scheme and scale of an apparently hoped for and expected still growing enlargement), having clearly, on account of example, the start of every other of our present colleges, as not becoming such but by a like perpetuity and establishment after that æra.

And to the memory of whose great and successive founders, and of the above very great and royal one in particular, be for ever paid all due and great regard for so practically honouring, and so memorably distinguishing this so great, and in itself and its effects so signally and continually approved, a purpose.

But not to leave University college, as above, and without having recourse to those the most informed about it; let it further be attended to, that Mr. Wood, in his English and last adjusted account of it, on the evidence there adduced as well from the archives of the university as of the college, is forced to disclaim *the general persuasion he had been carried away with*, of attributing this house to the piety of king Alfred; and that Mr. Smith of this house, a no less qualified inquirer, and under a like predilection for so great a founder, and without any knowledge of this change in Mr. Wood, some fifty years after, on ampler and more inspected evidence from the same repositories, is forced into a like, but more abhorrent, conclusion of so ill grounded a supposal. For the manner in which Mr. Wood's change of opinion, as in his lately published English account, was kept back from the publick by Dr. Charlet, [though under a written promise of performance of trust, as in letter 42 of vol. 24. of Bp. Tanner's MSS.] see in Mr. Hearne's Diaries vol. 103. p. 36. and vol. 108. p. 85. And for the too probable motive of such secreting, see Mr. Smith's Annals of University college throughout. And to show how the claim to such a founder might be advanced against the right; the author of British Topography, in vol. ii. p. 145. observes, "In a trial in Westminster hall Alfred was said by one side to have founded University college; and this, which was nothing to the dispute, being allowed by the other party, it is now said to be fixed".



In dorso. *Carta Ric. Comitis Glouc. de maneriis de Maldon & Farleye Surr.*

[As referred to in p. 59 of these papers.]

**R**icus de Clare Comes Gloucestr. & Hertford. omnibus sancte matris ecclesie filiis, ad quos presens scriptum pervenerit, salutem in domino. Sciatis nos pro salute anime nostre, & animarum antecessorum & heredum nostrorum, ad honorem omnipotentis Dei, & augmentum cultus divini, concessisse, pro nobis & heredibus nostris, dilecto & speciali nostro domino Waltero de Merton, quod ipse ad perpetuam sustentationem clericorum in scholis degentium, & se studio in eisdem salubriter applicantium, quos in domo domini, veluti columpnas, & fulcimenta, speramus domino largiente profuturos, maneria sua de Farleya & Maudon cum membro de Chiffendone & cum omnibus aliis pertinentiis eorundem maneriorum, que sunt de feodo nostro, dare possit, assignare, seu legare, quandocumque & quocumque statu sui corporis fuerit, domui de Merton, aut alteri domui religiose, que ad sustentationem clericorum predicatorum in studio degentium, perpetuo teneatur, secundum ordinationem & provisionem ejusdem domini Walteri, necnon & conditionem quam ipse super hoc duxerit statuendam. Hanc etiam elemosinam salubrem ac Deo sperantes placabilem, sub nostra volumus defensione & conservatione permanere, ipsamque nostris heredibus ad eorum salutem, & sub merito conservationis illius honoris quem nostris & predecessorum nostrorum sudoribus adquisitum jure successionis transferimus, ad eisdem servandam commendamus, & sue protectionis ac defensionis clipeo perpetuo contuendam. Qui etiam supra ipsos ad quos dicta maneria ex ordinatione supradicta devenerint, liberam & plenam habeant potestatem ipsos compellendi per potestatem secularem ad observationem ordinationis predictae & exhibitionis sustentationis memorate. Et ad perpetuam hujus rei securitatem presenti scripto sigillum nostrum duximus apponendum. Hiis testibus venerabilibus patribus E. Sarr. W. Exon. S. Norwicen. Episcopis. Dnis Pho Basset Justiciario Anglie. Robo. Walerand Senescallo domini Regis. Willmo de Wilton. Gilbo de Preston. & Johe de Wivill Justiciariis. Johe de Breuse. Galfro de Fanancurt. Nicho de Mauling. Waltero de Kinardel. Magris Johe de Sethevell & Galfrido de Hispal. Dat. London. in crastino Sti Johis ante portam Latin. Anno dni millesimo. ducentesimo. sexagesimo. secundo.

Walter de Merton was himself at this time Chancellor.

In dorso. *Carta G. Com. Glouc. de Licentia ordinandi de maneriis de Maudon & Farl. Surr.*

[As referred to in p. 40.]

**G**ilbertus de Clare Comes Gloucestr. & Hertford. omnibus Christi fidelibus ad quos presens scriptum pervenerit, salutem in domino. Pia fidelium vota, piis opibus & auxiliis prosequi cupientes, ac venerabilis progenitoris nostri domini Ricardi quondam Comitis Gloucestr. & Hertford. vestigiis inherentes, concedimus dilecto & familiari nostro domino Waltero de Merton, ut ipse maneria sua de Meaudon & de Farlegh



Farlegh cum membris & pertinentiis eorundem, in quocumque statu sui corporis & quandocumque voluerit, assignare & inde ordinare possit, prout expedire viderit, ad perpetuam sustentationem scholarium in scolis degentium, secundum conditiones circa ipsos per eum ordinandas, aut jam provisas, seu plenius providendas. Hanc etiam elemosinam pro anima dicti progenitoris nostri & nostra, necnon & antecessorum & heredum nostrorum, sub nostra conservatione & defensione suscepimus, & eam defensionem & conservationem heredum nostrorum tanquam salubrem & Deo placentem specialiter commendamus. Hiis testibus Dominis Wilhelmo de Burgo. Willmo de Apelderfeud. Robto de Monteny. & Rico de la More militibus. Magro Galfrido de Aspale. Nicho de Leukenor. Laurentio Clerico & aliis. Dat. apud Icham die Martis in crastino Nativitatis Beate Marie anno regni dni H. Reg. filii Reg. Johis Quadragesimo octavo.

The whole of the first and original endowment of Merton college being of the honor of Clare, and held of the great earls of Gloucester; the founder had license from them, as well as authority from the crown, for the settlement he was making; from earl Richard as above, in 1262; and from earl Gilbert his son and successor, in 1264. As the chief lords, they were, at this time of the feudal polity, the proper patrons and approvers of such his undertaking: and therefore, to the glory of God and for increase of his service, and as due in honour and regard to themselves and their friend and feudatory the founder, they do, as here in their licenses under their seals of armes and military distinction, take upon themselves and commend and commit to their successors, the patronage, the lay-patronage and protection, of his most pious and eleemosynary institution. And as chief lords of the fees, and friends and patrons of the founder and foundation, it was for *their* souls health, as well as for the king's, and that of others more especially concerned in it: the founder, who as the mesne lord had assumed to himself, as was usual, *their* armes with a difference; in like sort imparting them with the estate to the college, as the proper colours for it to bear, and according with those under which it was to be protected: viz. the armes of Clare. Or: 3 Chev.: g: differenced, Or. three cheverons per pale: the first az. and gu. the second gu. and az. and the third as the first. And by the exemplifying certificate as under,

These are the ancient Armes appertayning to Merton College in Oxon. as from their Founder Walter de Merton Lorde Chancellor of Englande in the tyme of K. Henry the thirde and after Bishoppe of Rochester in the tyme of Edward. 1. w<sup>ch</sup> Walter before [*in*] the tyme of the Barons Wars founded Merton Colledge aforesayde.—And at this my prnt Visitation was Th: Bickley Esquire, Dr. of Divinitie, Warden of the same Colledge and Vice Chancellor of the Univerfitie. Septemb. 1. Anno 1574. Elizab. 16.

Lee alias Port Culleis

Marshall to Clarencieux.

P. 17, l. 14, *for* from *read* to.  
P. 21, l. 9, *for* come *read* came.  
P. 29, l. 3, *for* arces *read* acres.  
P. 30, l. 9, *after* and *insert* that.





**A**S besides and against what is before advanced of the time of removal from Maldon, there is another time assigned for it on the much approved, and well known, monument of the founder; and as this is authority which may seem to call for something to be said of it; the following is here produced not merely as the older, but as such the righter, *college*-account of the college-foundation, and at some time thought of for the monumental inscription, as by a transcript of it, with the words *Here lyeth entombed* prefixed, and other accommodation of it, in the hand-writing (as it seems) of Sir Henry Savile, still remaining.

“Walter de Merton was chancellor of England in kinge Henry the third his dayes (a). He founded *this* colledge in Oxford, named by his own name, **THE HOUSE OF THE SCHOLARS OF MERTON**, and endowed it in effecte with all the lands that at this time *we* possesse. He first gave statutes to *this* colledge, under the forsaide kinges seale and his owne, in the yere of our Lord 1264. But he gave those statutes that be now used, in the moneth of August, in the 2<sup>d</sup> yere of kinge Edward the first, under that kinges seale and his owne, A. D. 1274 (b): in the which yere also he was consecrated Byshop of Rochester, and departed out of this lyfe about November three yeres after, in the yere 1277, 5<sup>to</sup> Edw. 1<sup>ml</sup>.” Prefixed to Regr. 1567.

(a) With what great addition to his honour, and to the good of the state, he was again made chancellor on the demise of this king, and till the return of his son and successor from Palestine, and his own election to a bishoprick, was neither known to the college at the time of this writing, nor at the time of erecting the monument in 1598; as may be well concluded, not only from the no notice taken of it in either, but from the long after notice of it by Sir Henry Savile, as new to him: in Camdeni et Aliorum Epist. Num. 174. The following, however, is one amongst the many since discovered proofs of it, as now conspicuous, in Prynne's Records, and Rymer's Foedera, and other collections, &c. A. D. 1273. An. 1 E. 1. Bundela Brevium, &c. n. 11. in Turri Lond.

*Rex E. grates refert Waltero de Merton, super diligentiam, quam circa Regni negotia apposuit.*

Edwardus, Dei gratia, Rex Angliæ, Dominus Hiberniæ, & Dux Aquitaniæ, dilecto Clerico & Cancellario suo Waltero de Merton, Salutem.

Super diligentia, quam circa nostra & Regni nostri negotia apposuistis, grates vobis referimus speciales; rogantes quatenus id, quod laudabiliter inchoastis, feliciter continuare curetis: In hiis quæ ad officium vestrum pertinent, cuicunque facientes Justitiam exhiberi; alios autem ad id pariter inducentes; non parcentes conditioni aut statui cujuscunque, quin rigor Juris ipsos coherceat, quos Æquitatis suavitatis nequit ab injuriis cohibere.

Ea namque, quæ rite feceritis circa ista, faciemus (disponente Altissimo) robur firmitatis constantissime optinere.

Dat. apud Mellune super Sekene 9. Die Augusti, Anno Regni nostri primo.

(b) GUALTERUS ille idem Collegium non Reditibus tantum opimis, sed et Statutis eximiam Sanctimoniam, Charitatem, Sapientiam, Doctrinam, testantibus, ornavit; et iis non aliena Opera, sed proprio Marte conscriptis; Stylo sic eleganter morato, ut sit repertu mirus in ætate illa, quam barbara Impolities totam alias inundaverat. *Henr. Birkhead* in præfat. ad Orationem *Henrici Jacob* in Coll. Mert. habitam, 4 Aug. 1636.

With these are published some particular extracts from the statutes, but, whether the following is one of them, the book is not at hand to show.-----“Injungo etiam scholaribus prædictis, in virtute Dei, et sub obtentu felicitatis vitæ presentis pariter et futuræ, ut in omnibus et super omnia, unitatem, et mutuam inter se charitatem, pacem, concordiam, et dilectionem, semper observent.”

O

And



And hereupon, it is thought, there need be no hesitation in remarking, that though in these succeeding ages, as the ages of printing and perusing the annals and chronicles, the records and memorials, of the preceding, the college may have attained to the knowing somewhat more of their *founder*; their own more private and less open evidences have not been *so* inspected, as to have yet afforded them a more right account of their *foundation* than that which is above recited; as, though not having all that is right in it, not having any thing that is wrong in it.

According to this account therefore, and in the time of it, the society respected the Maldon and Oxford settlements as one and the same foundation, and dated that foundation, as in the running title of the college register (c), from 1264. Yet as soon after losing sight, it should seem, in what manner these were the same, and that as well in the charter of 1270, as in that of 1264; by a too hasty apprehension of the later, as the removing one, (though instead of removing even the Maldon part of the foundation, clearly continuing it at Maldon) they, as by the inscription on the monument in 1598, and in direct contradiction to that charter, as well as the succeeding one in 1274, fixed the date of the removal from Maldon to Oxford in 1270. And on this commenced a new and double mode of dating of the college, as founded at Maldon in 1264, and at Oxford in 1270 (d). This, however, as in direct opposition to the authorities it proceeded on, gave way to a still other mode of dating, so soon as on or before the publishing of, Mr. Twyne's book in 1608 (e); he, on his introduction by Sir Henry Savile into the college treasury, having discovered from the unlucky writing of 1267, that the college had a three years still earlier commencement and higher antiquity in Oxford, as thereby at that time brought thither. And, on the same authority of this same unlucky writing, *that year*, though to the utter deranging and confounding, and therein obscuring, of that evidence, which, in its proper, natural, and necessary light and order, should have shown this college, even in the mode, as well as time, of its foundation, the first in the universities, has from that time to this, by a no less general, than unfounded, accumulation of error, been made the æra of removal from Maldon; and so of foundation, and that as of a different foundation, at Oxford. As witness, even prior to Mr. Wood's, and his followers, adopting and promoting this error, such instances, as some dates within the college, and the inscription on what the university, in 1671, were pleased to accept as the picture of this founder. *Walterus de Merton Summus Angliæ Cancellarius sub Henrico III. et Episc. Roffensis sub Edwardo I<sup>o</sup>. Coll. Mertonense Oxoniæ fundavit A<sup>o</sup>. D<sup>i</sup>. MCCLXVII. Quam foundationem postea stabilivit et confirmavit A<sup>o</sup> D<sup>i</sup> MCCLXX. et A<sup>o</sup> D<sup>i</sup> MCCLXXIV. Obiit A<sup>o</sup> D<sup>i</sup> MCCLXXVII.*

(c) Reg. Nov. p. 83. Anno Christi 1581. Regni Reginae Elizabethæ 24. Doctoris Bickley Custodis 14. Collegii 317.

(d) Ibid. p. 205. Anno Domini 1603. Regis Jacobi 1. *Fundati Collegii-----Maldoniæ 339-----Oxonie 333.* Henrici Savile Custodis 29.

(e) Inter Miscellanea ad finem *Antiquitatis Acad. Oxon. Apologiæ.* Collegium Mertonense in *Parochia S. Joannis Baptiste.*

But



But to give the full authority of the date, 1270, as here the most intended to have been spoken to; the whole epitaph (though so frequently made publick) shall be annexed, as inscribed in Roman capitals on the said noted and goodly Gothic monument, erected in Rochester cathedral, on the north side of St. William's chapel, on the ruin of the original, and as such the still more memorable tomb of this very great and good, pious, and, in some sort, protestant bishop, there defaced and despoiled at the reformation. To look back to which, as in its original, and before its violation.---It was an altar tomb of marble, made at Limoges (*f*), with the effigies of the said very eminent and venerable prelate, in his pontifical habit, engraved on a large brasse plate fixed on the top of it; and round the verge there were some Latin verses, without any date. There was not any thing in the least superstitious in them. They respected him indeed in the work of his foundation; his EDES OXONIE being made the matter of commendation. But then as not so adapted to the memorial that succeeded, they were very rightly put by for the tetrastick in the stead of them. That which preceded is, it seems, an early instance of such tombs with brasses; and the college have had assurance of its being adorned, as above, with them. Mr. Leonard Yate, who was fellow of Merton some five years before the disclosure here noted, and afterwards rector of Cuxham in the county of Oxford, at the age of ninety, informed Mr. Wood, at that place, 28 Dec. 1659, that, when, on removing the stone, the founder's grave was opened, the portraicture of his body was discovered, and his personage seen to have been tall and proper: that he had in one hand a crozier staff, which, when touched, fell to pieces: that he had in the other a silver chalice, which would hold more than a quarter of a pint: that the warden and fellows caused it to be sent to the college, and to be put in their *cista jocalium*: but that, the fellows in their zeal sometimes drinking wine out of it, this their so valued relick was broken and destroyed. MS. A. Wood.

(*f*) E Rotulis Comput. Exequutorum testamenti bone memorie Walteri de Merton quondam Roffensis Episcopi.

- Et computant  
li. s. d.  
xl. v. vi. Liberat. Magistro Johanni Burgenſi Limovicenſi pro tumba dni episcopi Roffenſis, ſcilicet pro conſtructione et cariagio de Lymoges uſque Roffam.  
s. d.  
Et xlv. viii. Cuidam executori eunti apud Lymoges ad ordinandam & providendam conſtructionem dictæ tumbæ.  
s. d.  
Et x. viii. Cuidam garcioni eunti apud Lymoges, querenti dictam tumbam conſtructam, & ducenti eam cum dicto magiſtro uſque Roffam.  
Et xxii li. in maceoneria circa dictam tumbam defuncti.  
Et vii. marcas in ferramento ejuſdem, & cariagio ejuſdem a Lond. uſque Roffam, & aliis parandis ad dictam tumbam. [iv. li. xiii. s. iv. d.]  
Et xi. s. Cuidam vitriario pro vitris fenestrarum juxta tumbam dni Episcopi, apud Roffam.

Summa Lxx. li. vii. s. ii. d.

These rolls, as containing the will and execution of it, of course include the *special* bequests of 1000 marks to the college, and 450 to the thereunto annexed hospital at Basingstoke, with 100 more for a chaplain therein; but they are in the college in show of a balance of 975 l. 2s. 1d. 1q. as *residue* bequeathed to it.

In



In Rochester cathedral, on the north side of St. William's chapel, is the tomb of  
WALTER DE MERTON, bishop of that see, and the following Inscription in  
golden capitals. [*perpetua renovanda. Reg. Nov. p. 189.*]

On the two tablets in the front of the tomb :

WALTERO DE MERTON CANCELLARIO  
ANGLIÆ SVB HENRICO TERTIO : EPISCOPO  
ROFFENSI SVB EDWARDO PRIMO : RE : VNIVS  
EXEMPLO, OMNIVM QVOTQVOT EXTANT  
COLLEGIORVM FVNDATORI, MAXIMORVM  
EVROPÆ TOTIVS INGENIORVM FOELICISSIMO  
PARENTI, GVSTOS ET SCHOLARES DOMVS  
SCHOLARIVM DE MERTON IN VNIVERSITATE  
OXON, COMMVNIBVS COLLEGII IMPENSIS  
DEBITVM PIETATIS MONVMENTVM POSVERE  
ANNO DOMINI 1598. HENRICO  
SAVILE CVSTODE.

OBIIT IN VIGILIA SIMONIS ET IVDÆ, ANNO  
DOMINI 1277, EDWARDI PRIMI QVINTO.  
INCHOAVERAT COLLEGIVM MALDONIÆ IN AGRO  
SVRR. A° DOMINI 1264, HENRICI TERTII  
QVADRAGESIMO OCTAVO: CUI DEIN SALVBRI  
CONSILIO OXONIVM A° 1270 TRANSLATO  
EXTREMA MANVS FOELICISSIMIS, VT CREDI  
PAR EST, AVSPICIIS ACCESSIT A° 1274, IPSIS  
KALENDIS AVGVSTI A° REGNI REGIS EDWARDI  
PRIMI SECYNDQ.

MAGNE SENEX TITVLIS, MV SARVM SEDE SACRATA  
MAIOR, MERTONIDVM MAXIME PROGENIE:  
HÆC TIBI GRATANTES POST SECVLA SERA NEPOTES  
EN VOTIVA LOCANT MARMORA, SANCTE PARENS.

On an added tablet, over the figure cumbent on the tomb under the arch :

HVNC TVMVLVM FANATICORVM RABIE  
(QVÆ, DV RANTE NVPERO PLVSQVAM CIVILI  
BELLO, PROVT IN IPSA TEMPLA, SIC ET IN  
HEROVM SANCTORVMQVE RELIQVIAS IBIDEM  
PIE RECONDITAS, IMMANITER SÆVIEBAT)  
DEFORMATVM ATQVE FERE DELETVM, CVSTOS  
ET SCHOLARES DOMVS SCHOLARIVM DE  
MERTON IN ACADEMIA OXONIENSI, PRO  
SVA ERGA FVNDATOREM PIETATE ET  
GRATITVDINE, REDINTEGRABANT  
ANNO DOM. 1662. CVSTODE  
DNO THOMA CLAYTON EQVITE.

This monument had other cleaning and renewing in 1701, and again in 1770. And the college be-  
stow a very handsome annual gratuity on the proper person for a constant, careful, and cleanly keeping of it.

P. 14. note \*, l. 9, after *from*, insert *the first of*. P. 35, note (8) for *facellariis*, read *facellanis*. P. 37,  
note (9) l. 25, for *estate*, read *estates*. P. 38, note (9) l. 22, *duplicates*, as there, intend two like,  
and alike authorized, instruments of each. And by *that evidence*, &c. in p. 54, l. 22, is intended the  
whole and proper evidence of each charter, in the right and regular succession of it.



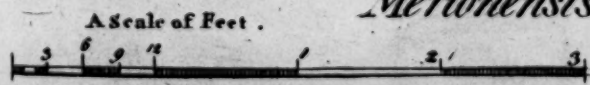
*The Monument of WALTER de MERTON, Bishop of Rochester, and Founder of  
MERTON COLLEGE, Oxford. in Rochester Cathedral.*



*Sumptibus Henrici Barton. S.T.P.*

*Mertonensis*

*Custodis et Sociorum Collegii  
Oxon.*



*J. Royle delin. et sculp.  
1782.*







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S O M E T H I N G

S U P P L E M E N T A R Y.

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SOMETHING

SUPPLEMENTARY



---

## C O N T E N T S.

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I. Of the HOUSE of scholars of Merton, as, in its form, and formation, and whole shew of its foundation, and confirmation, &c. the earliest of the present colleges.

WALTER DE MERTON (1) so early as in 24 of Henry III, was in possession of an acquired, as well as of a family, estate; and being, moreover, in situations

(1) WALTER DE MERTON, with the more that is known and collected of him, than, at this distance of time, could well be expected, must needs be left to better hands, and better handling.

OF his parents, however, it may just be remembered, that they stand thus at the head of a pedigree of the founder's family, written about ten years after his death in 1277, *Dominus Willielmus de Merton & Cristina uxor ejus*. Besides which, and other notice, there is various and very respectful mention of them by the founder himself. They appear to have been persons of some good account in their respective counties, within the diocese of Winchester; and related, the first to a person of note of the name of Heriard, the same seemingly who was one of the king's justices, or justices of England, in the reigns of king Richard I. and king John, and at the head of them as named in the record 5 John. in Madox's *Baronia Anglica*, p. 233; and the other to the family of Fitz-Ace, and both in the county of Southampton. From an uncle of this name, his mother, the daughter of Walter Fitz-Oliver, of Basingstoke, had the manor of St. John as above, and out of which, in addition to the then fee-farm of the town, a rent of xv s. was paid to the crown. This, as far as it appears, these worthy persons were enabled, of their generosity, and without any condition or reserve, to yield up to their deserving son, at that time styled *clericus*, as by *claus. 22 Henr. III. m. 14. in dorso*. And with this no small estate, sometime after, he endowed his hospital of St. John the Baptist, founded on the same by him, "pro salute anime reverendi domini mei, domini Henrici regis Anglie illustris, et heredum, atque omnium fidelium suorum; necnon et pro salute anime mee, parentum, et omnium benefactorum meorum, et in memoriam perpetuam laudabilis conversationis domine Cristine matris mee, de consensu & voluntate domini et patris mei."

NOW this estate at first, and before it was enlarged, as subsequently, for the college, having been charged with the perpetual support of their tomb, in the church of St. Michael, in Basingstoke; (they, of their devotion, having been perpetual benefactors to this church, by great wax lights, to be quarterly, continually, and for ever, renewed in it, out of this estate; and the founder in charging his hospital with such render of these their lights, at this their tomb, and the then bearing them in procession to the altar of their lighting, having provided for the tomb itself being perpetuated, by these, the tenants in perpetuity, the hospital-possessors, of this estate) it is hereby humbly submitted to the present very advantaged, and more freed, possessors of it; whether, the site of the tomb being now ascertained, it would not be grateful, and greatly add to that credit, which the college has acquired, from their constant care and concern about their founder's place of interment, in some sort to revive the memorial of this of his parents?---the following, as well as the foregoing, relation, being no otherwise intended than as a plain stating and submitting of the fact.

This



situations of profit, which enabled him, in the way of his good and pious disposition, to part with them both: With his manor of St. John, within the royalty of Basingstoke, he founded a very good and well appointed hospital, for poor and infirm ministers of the altar, and other persons wanting relief there; and for the greater security of it, as well as to obtain it the privileges of a royal foundation, with free chapel and chantry, &c. he had it refounded, by the king, in the 46th year of Henry III; and after the intervening foundation of his House, or college, of scholars, he then, with kind accommodation, and ampler endowment, had it annexed to that his House of scholars, as by the succeeding charters thereof, their ever after added House, or hospital, of St. John the Baptist, in Basingstoke.

AND then in regard to his manors of Maldon and Farleigh, \* with their appertinances, they were bought by him of William de Wateville and Peter de Cudinton, so early as above, and with subsequent grant of free warren, by the king, and confirmation and license from the chief lord; in which, however, there being an exception against assigning them *Judeis et Domibus Religiosis*, he had occasion, on his first academical intent, for a fresh license for assigning them *Domui de Merton*; and then after that for another, for the better and still more original disposal of them *Domui Sclolarium de Merton*, which was to follow; and to which therefore, as above, conducting, these chief and mesne lords, together with the sovereign, and the founder's other chief patron and promoter, are remembered in the charter: and of which, as an informing, as well as curious, original, the introductory endowing and incorporating, or founding and creating, part, together with the concluding ratification, and the

This being distinguished as the Ground, where, in the middle of the thirteenth century, was placed the tomb

of the very laudable and much to be remembered

WILLIAM DE MERTON and CRISTINA his wife;

and where, in the year of our Lord M. CC. LXXV,

THEIR great and illustrious Son,

WALTER DE MERTON,

willed his body to be buried with theirs,

in case he should decease

within the county of Southampton:

In the place of that monument,

and to subserve in the design of it,

HIS sons, by adoption,

the warden and scholars,

of HIS, the first founded, college of scholars,

and honoured with the name of MERTON,

now after a more than five hundred years succession

as well to his patrimonial and hospital,

as acquired and college, estates,

do thus, most respectfully, inscribe this stone.

A. D. M. DCC. XC----

\* THE manors of Maldon and Farleigh were, at the time of the conqueror's survey, part of the possessions, or allotment, of Richard Fitz-Gilbert, called Richard de Tonebridge, earl of Clare: and we



the founder's reference to the full authority he proceeded on, as in his own investing charter accompanying the other, is given in the note. ( 2 )

ON

we see, here, at the time of Walter de Merton's concern in them, they were held as of the Honor of Clare, and of the then earls of that name. They were together rated at three knights fees; Maldon at two knights, and Farleigh at one.

( 2 ) *Carta Foundationis Domus Sclolarium de Merton, anno 1264, cum sigillis ut infra: et est dupl.*  
[This charter is likewise found enrolled in the charter-roll of 48 Hen. III. m. 2.]

*Dotatio et Fun-* In nomine Dei omnipotentis, patris, et filii, et spiritus sancti &c. &c.  
*datio 1264.* Ego Walterus de Merton, illustris domini Henrici regis Anglie, filii regis Johannis, quondam cancellarius, tam auctoritate michi a dicto domino meo rege concessa, quam ratione juris et potestatis que mihi in meis maneriis de Maudon et de Farle cum eorum pertinentiis competunt, do, assigno, et concedo, maneria ipsa cum omnibus pertinentiis quocunque nomine censi possint, ad fundationem domus, quam dici volo et nuncupari, Domum Sclolarium de Merton; quam et ego, in profectum ecclesie sancte Dei, pro salute anime domini mei regis predicti, et animarum domini Nicholai quondam Dunelm. episcopi, Ricardi quondam comitis Glouc. et Hertford. Gilberti filii ejus, Willielmi de Whatevill, et Petri de Cudinton, necnon parentum et benefactorum meorum omnium, auctoritate venerabilis patris Johannis Winton episcopi, loci diocesani, interveniente, necnon et consensu capituli sui, in dicto manerio de Maudon statuo, fundo, et stabilio, ad perpetuam sustentationem viginti sclolarium in scolis degentium, Oxon, vel alibi ubi studium vigere contigerit, et ad sustentationem duorum vel trium ministrorum altaris Christi in dicta domo residentium, sub conditione et modo subscriptis, tam circa scholares quam ministros predictos, Domino largiente, in posterum observandis.

*Ratificatio*----Ad memoriam hujus rei sempiternam, et ut hæc ordinatio et provisio salubre robur obtineant perpetue firmitatis, sigilla predictorum domini Henrici regis, et domini I. Winton. episcopi, necnon et capituli sui, in sui consensus et approbationis sue testimonium, presentibus, una cum sigillo meo, apponi procuravi. Actum anno Domini MCC sexagesimo quarto.

In dorso. *Carta W. de Merton facta scolaribus de Merton.* [as within named.]

Omnibus Cristi fidelibus ad quos presens scriptum pervenerit: Walterus de Merton, illustris domini H. regis Anglie quondam cancellarius, eternam in Domino salutem. Ad omnium vestrum notitiam volo pervenire, quod ego tam auctoritate michi a prefato domino meo rege attributa, necnon potestate michi a capitalibus dominis feodi concessa, quam ratione juris quod michi competit in meis maneriis de Maldon, Chessendone, [a member of Maldon] Farle, assignavi, dimisi, et concessi predicta maneria cum omnibus pertinentiis eorundem, ad sustentationem Johannis de la Clythe, &c. in scolis degentium, secundum ordinationem inde per me factam, necnon a prefato domino rege, et domino I. Wintoniens. episcopo, loci diocesano, et ejus capitulo, approbatam. The said scholars as then named, and others after named or admitted, being, and to be, invested for life, cum pleno dominio maneriorum predictorum &c. but still on conditions, as in the said ordinance, and which was to be corrected, altered, and amended, at his good pleasure. And he further retains to himself, all such occasional use of the manor-houses, and accommodation for himself and family, in those places, as may consist with the support of the scholars in scolis degentium, et ministrorum altaris Christi secundum formam dicte ordinationis commorantium in maneriis predictis, necnon et custodis dictis scolaribus pro conservatione sustentationis predictæ et rerum ac possessionum suarum deputati, seu deinceps etiam deputandi. And then concludes with In hujus autem rei testimonium &c. sealed and attested, but without any date.

Though



ON this endowment then, the incorporation of 1264, as by the said charter, was for a number of *scholars in the schools*, and *ministering brethren in the manors*, apportioned to the income. And in what way soever the scholars were intermediately in the schools, at *Oxford*; they had a seat, and site, and church, of very great sufficiency, and with very great expedition, by the means and exertions of the founder, and by the immediate grant of every wanted favour from the crown, provided for them in this place of study: thus, and from this example, advanced to what we now see it.

AND

THOUGH twenty scholars in the schools, and *two or three* ministers in the manors, were to be maintained on this endowment, yet more of each were to be added on increase of endowment, and this therefore, as in the first charter of 1264, is, on a very increased and increasing endowment, confirmed and continued the rule for the number of scholars, though not of the ministers, in the succeeding charters of 1270, and of 1274. In the first of these two last charters, the number of ministers is ordered to be (and as if so before appointed) *three or four*; and in the other, *four or three at the least*. Moreover, in the House's petition to the pope (Nicholas iii.) as set forth in his bull of confirmation of it, in 1280, the number of scholars, as left in it by the founder, is said to be forty; and this to be increased, *si facultates predictæ excreverent*, and with further order, *ut in ecclesia ipsius domus, canonicæ domui eidem concessa, iiii capellani missarum solemnium perpetuo celebrent*. These, in the charter of 1264, and in the earliest evidences proceeding thereupon, seem to be denoted, as the brethren *in dicta domo commorantes*, and very eminently, if not exclusively, the brethren, till others became so intitled, as in the two succeeding charters: and then as before, and under every stage of improvement, they are seen to be those very superior and clerical brethren, who were commoners with the warden, as well at Oxford, as Maldon; and with whom he was to be constantly continued a commoner, yet a counselling and instructing one, as far as he could, when otherwise disabled by age and infirmity. But for this, and the still more extended care and humanity of the founder, see chapter 33 of the statutes.

OF the nature of their table, after what occurs of it in cap. 28, and cap. 33, of the same statutes, the ordinata or injunctions of 1276 furnish the next intimation. " *Illud etiam attendendum est et observandum, ut ille quinquaginta marce annue, et alia que ad mensam custodis, senioris, et trium capellanorum, in institutione dictæ domus assignate sint, per ordinationem custodis, tam ipso presentente, quam exterius pro negotiis dictæ domus agente, his qui ad eorum mensam conveniunt, ap- plicentur.*" This was before the above bull of 1280, and as before the very early alteration of the annual allowances from 50 marks and 50 shillings, to the weekly distribution of one mark for the whole of the above mess or table, and one shilling for each scholar's commons at the other; so, it should seem to have been made before the entry, in p. 241 of Chronic. Mailros, of the better commons of the better House of Scholars then in Oxford: the Scholars of the one House, as there mentioned, each of them having twelve pence *per week*, and those of the other only eight pence each. This alteration, however, of the yearly fifty into the one *per week* (by means perhaps of *Ela comitissa* &c.) was a very early alteration, but hardly such as arch-bishop Peckham animadverts upon in his injunctions 1284; and to it accords, in evidence of the old and singular constitution of this college, the form of the warden's account, as happily to this time abided by: the old weekly mark, (though now only two thirds of it in money, and one third of it in corn) being still to be found in this account: and the still continued style or title of the whole, as made up of, and including its three distinct divisions, being, *Allocata, pro mensa Custodis, Vicecustodis, et Capellanorum*: the warden moreover, out of this, in some sort and degree, still sustaining the subwarden, and senior chaplain, as the last of the chaplains that remained with him, the warden, &c. *in domo custodis*, and who are seen in the register, as well as in the statutes, and injunctions of 1276, to have belonged to the same *hospitium*. And as their weekly mark is thus continued down in this the account *pro mensa custodis, senioris seu vicecustodis, trium capellanorum,*



AND to these scholars and the brethren, as thus together incorporated and endowed, their manerial churches of Maldon and Farleigh were, soon after, in the same year 1264, appropriated (3): as were their after acquired churches of St. John

*capellanorum, necnon et quinque mancipiorum, &c.* as in stat. c. 28; so likewise, *pro mensa scholarium singulatim unicuique---1 s. per septimanam* is in much more frequent occurrence, in the weekly making up of their manciple's book.

IN these still subsisting evidences therefore, it is, that we are to look for the college, as in its original, and as differing therein from other colleges of an after derivation.

AND perhaps there may be no mistake in still further adducing the very seals of this corporation, not only as earlier in themselves than those of other colleges, but as otherwise bearing witness to its being an earlier corporation.

FOR first it may be added to what is before said of the common seal in p. 42. that to this *figillum commune*, [*et rotundum*] there was a contre-seal, in some older instances of use, added in reverse, probably by the warden, (as in other religious houses by the superior,) and possibly the same which he, as master of the college-hospital of St. John the Baptist in Basingstoke, kept for that hospital.

AND then again, it is still more observable, that there is another seal besides these two; and that the *figillum commune* [*et rotundum*] being cracked, there is now used, as the common seal, this other, which was at first only in concurrent use with the common seal: a seal of other form, [*ovatum*] device, and inscription; S. SCOLARIUM. DE. MERTONA. AD. CAS. abbreviated for AD. CAUSAS: a *figillum ad causas*, as distinct from the *figillum commune*, being so used in other religious houses, at the rise of this, the last and best species of them: And the which therefore, *figillum ad causas*, and *contre-seal*, as from them deduced and derived into this House, and not into any other college, seem in further and concurrent shew, of its being the first, and leading one, of its kind.

THEY are all three engraved at the top of Mr. Master's plate of the section and ichnography of Merton-hall in Cambridge, and something more might be said of the use, form, device, and inscription, of each of them.

(3) IN this view then of the origin and advancement, and therein of the nature, of this corporation; from the grant of the said manors by the founder, we come next, in the order of endowment, to the appropriation of these churches belonging to them; i. e. to the diocesan's giving, and granting, and confirming to this House (as a house of learning and religion) in *proprios usus* of it, and its incorporated members, *scholarium et ministrorum*, (in other instances *scholarium et fratrum*) the said churches, with their remaining profits, after vicarages endowed in them: and to which act of appropriation the bishop proceeds *pietatis intuitu, ad instantiam fundatoris, de consensu etiam et consilio capituli sui*, in furtherance of so great, and good, and very promising, a work, as this foundation was universally held to be. And of this deed this is the endorsement:

In dorso. *Carta episcopi Winton. et capituli sui, de appropriatione ecclesiarum de Maudon et Farlegb.* dat. xii. kl. Novembr. A. D. M°. CC° LX° quarto. [Et est triplata. Each has the same seals of bishop, &c. as the foundation-charter of the same year. See the plate.] It was followed by



In dorso. *Carta prioris et conventus Merton, de quieta clam. advocacionis de Maudon.*

Omibus ad quos presens scriptum pervenerit, Gilebertus prior de Merton et ejusdem loci conventus, eternam in Domino salutem. Noveritis nos, ad instantiam dilecti clerici fidelis ac familiaris nostri, Walteri de Merton, remisisse et quietum clamasse Domui Scholarium de Merton, quam idem dominus Walterus in manerio suo de Maudone, ad perpetuam sustentationem scholarium in scholis degentium et ministrorum altaris Christi in ipsa domo commorantium, pia consideratione fundavit, necnon custodi dicte domus et scholaribus ac ministris ejusdem, quicquid juris habere potuimus, seu nos habere dicebamus, in advocacione ecclesie de Maudone. Et volumus et concedimus, quod ipsi dictam advocacionem cum omnibus pertinentiis suis, necnon ecclesiam ipsam, quantum in nobis est, suis usibus, pro ut a venerabili patre domino J. Winton episcopo, de consilio et consensu capituli sui, ordinata est et concessa, sine impedimento nostri, integre ac pacifice, habeant et teneant in perpetuum. Salvis nobis &c. [all other their rights in the parish.] In cujus rei testimonium presenti scripto sigillum nostrum conventuale apposuimus. Dat. decimo kl. Septembris, anno domini M<sup>o</sup> CC<sup>o</sup> sexagesimo quinto.

The impression of the seal is very fine and fair on red wax: see the print of it.

THERE is an earlier acknowledgement from the prior and convent of Tortington in Suffex, of Walter de Merton, the then chancellor of England, very honourably contenting them for the advowson of Farleigh, *sua curialitate et pietate ductus, quanquam ad hoc minime teneretur.* Dat. apud Tortinton vii kl. Septembr. anno gratie M<sup>o</sup>. CC<sup>o</sup>. LXII<sup>o</sup>. [Seal as in the print of it.]

BUT this, as anterior to the foundation, is anterior to this series. And, though no less out of course, it may, as supplemental to, together with, the appropriation, be noted, that, as these churches were passed with the manors, and forthwith in the same year appropriated, the founder in consequence of his own charter of confirmation of his preceding donation of the manors in 1264, as after occurring in 1268, on the same principal of care and caution in so great a work, obtains of the then bishop of Winchester, Nicholas de Ely, (his late obtruded successor in the office of chancellor) his confirmation by *inspeximus* of the preceding appropriation: and which confirmation is thus endorsed:

In dorso. *Carta domini Nicolai Winton. episcopi de confirmatione appropriationis ecclesiarum de Maldon et Farleigh.* Dat. in crastino Sti Luce evangeliste, anno gratie millesimo ducentesimo sexagesimo octavo. [Seal as in the print of it.]

AND to this it may be still further added, that from the time of the college's fully repossessing their estate at Maldon, in 1707, after the for some time unseemly alienation of it, they have granted to their vicars thereof, for the time being, a very beneficial lease of the great tithes, &c. there, and to them belonging; and that Farleigh, as too small for appropriation, has been long since presented to as a rectory, and made disappropriate.

BUT inasmuch as the alienation here mentioned is a matter of moment to this society; and in shew of the present, as in some sort better than the preceding times, (and in which this was not the only instance, even with us, of such covetous and courtly attempts): the following abstract of it, as long since taken from the various entries in the college registers, &c. is here inserted.

IT appears, from the entries and documents referred to, that the college, in the year 1578, were at length, though with great difficulty, and by all manner of solicitation, from the great men of the court, brought



brought to alienate, by a lease of five thousand years, and under a new rent of money only, [viz 40. l. per ann.] their manors of Maldon and Cheshingdon park; an endowment which, in all the circumstances of it, came more than ordinarily committed to them, in trust of perpetuity: that this lease was intended for the earl of Arundel, \* but, for greater security, made to the queen, who immediately ceded to him her estate in it: that from him, on his death, in a few months after, it went to lord Lumley, who married his daughter, and, in about five years, to the family of Goode: first to a Joane Goode, widow, circ. 1583; then to a John Goode, about the year 1590; and from him, in his life time, to his son Sebastian Goode, about 30 years after: that the College, about this time, sc. A. 1621, 19. Jac. in a new reign, and in somewhat more than forty years from the said alienation, not satisfied with this act of their predecessors, and conceiving it to be against the statute of the 13th of her said Majesty, and so advised, did by a suit at the common law, in an ejection-firme, commenced against Sebastian Goode and his father then alive, (the then and late possessors) seek to avoid the said lease: and that the said Goodes, in chancery, and in the house of lords, seeking to be relieved, against the college, concerning the said lease, and to obtain the confirmation \*\* of it, the matter, upon various considerations and proposals, (in as much as they, or their family, in dependence on the royal grant, had given a valuable consideration to the former proprietor) was, after several years agitation, thus finally determined and adjusted between the said parties, in the court of chancery, Nov. 28. 1627: the court, on that day, as at all the hearings, being assisted by Mr. justice Dodderidge and Mr. justice Hutton, and by and with the advice of the said judges, decreeing: that the present lease, upon the present rents and covenants, should be forthwith conveyed, by assignment of the tenant, and acceptance on the part of the college, to persons appointed by it in trust, and for its use, after the first fourscore years enjoyment by the then tenant, from the day of the date of the said decree, and that the advowson of the church should be so conveyed to them, to be held, &c. immediately. In consequence therefore of this decree, bearing date, as above, Nov. 28. 1627, the estate as by the said lease and decree, continued in the name and family of Goode, and after them, in the name and family of Morley, (as heirs and assigns to the said Goode's), till Nov. 28, 1707; when the appointed term of fourscore years being expired, the college-term, in the remainder of the lease of 5000 years, about 130 years before granted by them, commenced; and then upon this recovery and repossession, they first make a grant by lease, upon a rent of corn and money, of the great tithes, &c. to them there belonging, to Dr. Bernard, the then vicar in possession;

\* *Hæc maneria nostra, manerio suo de Nonefuch adjacent, quod etiam ante triginta annos plus minus centum viginti jugera ejusdem manerii de Maldon devoravat, jamque totum avidissime deglutivit, excepto solum redditu supradicto.* Reg. med. Anno 1578.

The land, as here said to be first taken away, was probably that part of Worcester park (formerly None-fuch great park) which is in the parish of Maldon. Queen Mary having parted with the famous palace of None-fuch, though built by her father, to Henry Fitz-Alan earl of Arundel; queen Elizabeth was desirous of repossessing it. Lord Arundel, as it should seem from the above account, died in 1579, and according to Mr. Camden, "left it at his death to the baron Lumley, and from him, by bargain, it returned to the crown", and, as by appearance of the above, in some sort of consequence of the college lease being left to him by the earl, his father in law.

Since writing the last line, this description is found of the manor of Maldon, in the charter of king Charles I. confirming to the college all their estates, as therein described, Anno 1633.-----Manerium de Maldon, alias Mauldon, cum terris dominicalibus, silvis, et pertinentiis suis universis, in Maldon alias Mauldon, et Cheshington, in dicto comitatu nostro Surriæ: (Tenementis, in parco nostro, vocato None-fuch great Parke, inclusis, exceptis).

\*\* See in the same Register, Anno 1621, the thanks of the college to archbishop Abbot, as their patron, for his great and unsolicited vigilance and care in this cause, and readiness to oppose the wanted confirmation of the long lease.



John, and St. Peter in the East, both in Oxford (4): And in order to after-appropriation, they had the advowsons of two other churches in that and the next year, granted and conveyed to them.

BUT

(a like being made to all who have since succeeded him as vicars:) and after that, for 21 years from Annunc. 1712, they lease the demeanes, (found to be worth 500 l. a year extended value), upon the old, or last, rent of 40 l. (but with one part in three of it converted into corn, as by the statute 18 Eliz. and upon a fine of 5000 l.) to dean, afterwards bishop, Willis; to whom, and to his family, the lease was for a long time renewed, but is now in other hands.

(4) AFTER the foregoing evidences respecting the House at Maldon, and the there endowment, we come next to those of the endowment acquired to it at Oxford, and more especially respecting the scholars, as there being and to be, in the schools of it: and successively in this order.

In dorso. *Carta abbatis et conventus Rading de placea, et de advocatigne ecclesie sibi Job. bapt. Oxon. facta amico nostro speciali, domino Waltero de Merton, circ. f. Epiphanie MCCLXV.*

In dorso. *Carta regis de licentia claudendi placeam in Oxon. [Et est duplata] facta dilecto et familiari nostro Waltero de Merton, as intending to erect a House on that place by its church of St. John, for the use of his scholars perpetuo degentium in municipio predicto. Teste me ipso apud Kenilworth. tricesimo die Augusti anno regni nostri quinquagesimo. [1266]*

In dorso. *Carta domini H. reg. fil. reg. Job. de ecclesia sibi Petri versus Orientem Oxon. [Et hæc est quadruplata.] f. intuitu Dei &c. pro salute &c. Domui scolarium de Merton, quam dilectus et familiaris noster, Walterus de Merton, quondam cancellarius noster, apud Maldon in com. Surr. ad perpetuam sustentationem scolarium in scolis degentium, nostro consensu et approbatione intervenientibus, nuper fundavit, necnon scolariis et fratribus ejusdem domus, advocatignem ecclesie beati Petri Oxonie versus Orientem &c. and with consent to its being appropriated to the use eorundem scolarium et fratrum, and without any notice of ministers as generally added in the mention of the House of foundation as for the sustenance of scholars, and ministers or brethren. Dat. per manum nostram, apud Kenilworth, septimo die Septembris, anno regni nostri quinquagesimo. [1266.]*

In dorso. *Carta domini Ricardi Lincoln. episcopi et sui capituli de appropriatione ecclesiarum sibi Petri et sibi Johannis Oxon. [Et est duplata.] f. Domui Scolarium de Merton, ad honorem divini nominis, et ecclesie sacro sancte profectum, ob Dei omnipotentis intuitum, et pium domini regis, necnon et fundatoris ipsius, interventum. Dat. Spaldwik. Idus Sept. anno Domini millesimo ducentesimo sexagesimo sexto.*

AND it is in this evidence observable that after mention of the foundation as for *scholars in the schools*, and *ministers in the House*; and, without any other such like persons either coming before, or after intervening, the words are changed in the appropriating part (otherwise than in the Surrey appropriations) to *dicti scolares et fratres*, and *idem scolares et fratres*; and this as well in the appropriating of the one church as the other.\*

BY these deeds it appears, that *Walter de Merton*, in, and for, the establishing of a House or place for his scholars in Oxford, (as by his foundation-charter of 1264)-----in 1265, obtained of the abbey of Reading, (but, as if inalienable, on a rent,) some vacant ground, within the king's demesne of the city of Oxford,



Oxford, about the church of St. John the Baptist, and with the advowson of the said church belonging to it: that this ground, for the better site of such his House of Scholars, he obtained to be enclosed, under the special license, and as such the confirmation, of king Henry the third: and that this church of St. John, for the more special use of his scholars, &c. together with that of St. Peter, (as by the said king added, for the better support of them) he obtained to be duly and canonically appropriated to them, by one and the same deed, or grant of appropriation, in 1266: the warden and scholars, in consequence, and on the very terms of the appropriation, coming into the full and corporal possession of St. John's, on the death of its then incumbent, in 1292; and of St. Peter's, on the death of its then incumbent, in 1294.

IN Mr. Wood's account therefore of the first of these two churches, viz. the college-church of St.

John, (as in Mr. Gutch's publication 1786, pp. 17, 18, in MERTON COLLEGE, Note (67); and in Notes concerning the foundation of this college, and this its church, in Appendix to Textus Roffensis by Mr. Hearne 1720, pp. 408, 409, 410; and as, with increase of error, in Sir John Peshall's History of the City of Oxford 1773, p. 128.) the matter is not a little confused, in making the appropriation a confirmation, and what was only in consequence and confirmation, the appropriation.

THE appropriation was by Richard de Gravesend, the then bishop of Lincoln, the diocesan, with

advice and approbation of his chapter, as in these cases, anno 1266; and then made, as in the very deed or grant of it, A. 1. 59, *ob Dei omnipotentis intuitum, et pium domini regis necnon et fundatoris ipsius interventum*. In consequence of which, and of the church of St. John becoming vacant, on the

death of William de Chetyndon, the last incumbent rector, in 1292, the college, by regular and necessary induction, became fully, and finally, possessed of, and confirmed in, this their so before acquired and assured right: it being by form only of the usual mandate, as passing from Oliver Sutton, the then diocesan, to the archdeacon, and from him, by his official, to the dean of Oxon. that this their due and rightful possession was given them, as in A. 1. 63, 64. dupl. And so likewise, and in such sort, the college became possessed of St. Peter's, (as before appropriated to them with St. John's in 1266,) on the death of Bogo de Clare in 1294; but with endowment for a vicar as then and before had in this church; and now, on the terms of this new and better appropriation of it, no less, to be sure, to be had in it: such endowment, however, giving way to other provision, for other ministers than a vicar, in the church of St. John. And they are not only thus distinguished, in name, and number, and difference of provision, from the vicar of St. Peter's, in the before mentioned appropriation by Richard de Gravesend in 1266; but they are still more expressly denoted, as the *ministri altaris in dicta domo commorantes*, in the thereupon ensuing and furthering mandate of Oliver Sutton, for giving the college possession, in 1292. The *ministri altaris in dicta domo commorantes* are moreover called *capellani* in the statutes; and that is their name in the pope's intervening bull of 1280; it reciting in course of the foundation, *ut in ecclesia ipsius domus, canonice domui eidem concessa, iiii capellani missarum sollempnia perpetuo celebrent*: the whole duty of the church being of course included in the joint-provision for it, however subsequently distributed and distinguished in the rule and order of ministration. See before in p. 62.

AFTER the preceding grants, the next in succession is not an Oxford one, but

In dorset. *Carta prioris et conventus de Stanes de advocacione ecclesie de Wulward cum capellis, &c.*

[Et est duplicata.] facta intuitu Dei, et ad instantiam venerabilis viri domini Walteri de Merton, domini H. regis Anglie illustris quondam cancellarii, &c. Deo, et Domui Scolarium, quam idem dominus apud Meaudon in comitatu Surr. ad perpetuam sustentationem scolarium in scolis degentium, et ministrorum altaris Christi in dicta Domo commorantium, nuper fundavit, necnon scolaribus et fratribus ejusdem Domus, &c. quinto Idus Octobris, anno Domini MCCLX sexto. This grant of advowson



was made, as the preceding ones, with provision for appropriation, which, in this instance, took place kl. Iunii 1268. And here note, (in respect to what Mr. Wood says of Peter de Abindon, in his Hist. and Antiq. univ. Oxon. lib. ii. 391.) that there was a fine passed for this advowson, *inter Petrum Custodem Domus Scolarium de Merton quer. &c.* bearing date in quind. Hilar. 51. H. III. 1266, and shewing that he was warden of the college, somewhere, before the supposed removal to Oxford, in January 1267.

FOR the other tenements which the founder provided for, and had conveyed to, his college, for the better accomplishment of the House in Oxford, Mr. Wood may be referred to; though no more right in attributing the acquisitions in Oxford to the founder's mind, at the time of acquiring them, being aliened from Maldon, than in making the scholars place of abode before 1267, primarily at Maldon, and only occasionally at Oxford: Oxford, as a university, being, from first to last, the place of their communing and abiding, and that in perpetuity, unless removed as allowed of: or when resorting, some of them, as proprietors, to their House of foundation, and for the special business of the annual scruting there: and this *their* House at Maldon being never intended for their House of study; though as made *their House* by incorporation, and for the support of them in study, it was denominated *the House* of Scholars: and such, in name and nature, it continued to be, not only in 1267, but in 1270, and till the translation or transferring of their warden and ministers *from thence to them, in their House at Oxford*, as by the charter of 1274: the House at Maldon being then discontinued on such translation and removal from it; and the House at Oxford established, in one, as well the House of support, as the House of study, on such transferring and accession to it.

AND whatever, and wherever, their university and place of study might be, they, the scholars, were from the first to dwell in one house, and have *mensam communem, et, in signum unitatis ac dilectionis mutue, habitum conformem*; the senior part of them, (and in 1274 the warden with the thirteen seniors) to be successively electors of other such scholars, not better provided for than by this institution, and with continuance therein till they were; and so continuing, as by the other terms of their election, humble and modest, peaceable and pious, attentive to rule and order, and rightly and duly subordinate; apt and inclined to learn, and intent upon making proficiency, in arts and philosophy, theology, and other the then superior, and most promoted and promoting, study of the laws.

FURTHER then, in Oxford, ----- precedent to the supposed removal in January 1267, remains only to be here denoted,

In dorso. *Carta domini regis facta domui scolarium de Merton, de licentia ducendi aquam* [rivulum de aqua] *de Cherwelle ad domum scolarium Oxon.* Pat. 51. H. III. m. 9. 3. Sept. 1267.

AND out of Oxford, ----- precedent to such supposed removal, is only to be here denoted,

In dorso. *Carta domini Edwardi, regis H. primogeniti, de ecclesia de Elham.* [Et est dupl.] f. intuitu Dei, et pro salute anime nostre, & anime prefati domini regis, patris nostri, &c. Deo, et Domui Scolarium de Merton, quam, dilectus & familiaris noster dominus Walterus de Merton, prefatus Regis, patris nostri, quondam cancellarius, apud Maldon in comitatu Surr. ad perpetuam sustentationem scolarium in scolis degentium, [no ministers] nuper fundavit, necnon scolariis & fratribus ejusdem Domus, de advocatione ecclesie de Elham in comitatu Kancie cum pertinentiis, &c. and with provision for appropriation as effected 20 April following. His testibus dominis Henr. de Alemann, &c. as there. Dat per manum nostrum apud Salop. 27<sup>o</sup> die Sept. anno regni predicti domini Regis patris nostri 51<sup>o</sup>, 1267.

AND,



AND, as in consequence and furtherance of this grant of the prince, and as dependant on it, though a little beyond the date of such supposed removal, in 1267, may be here subjoined,

In dorso. *Carta domini Cant. archiepiscopi, de ecclesia de Eleham.* [Et est dupl.]

Univerſis, &c. Bonifacius, &c. Illuſtris Anglorum regis primogenitus cultum Dei zelans dominus Edwardus, ad ampliacionem operis pie ductus, quod dilectus filius, dominus Walterus de Merton, ejusdem domini regis quondam cancellarius, ad perpetuam ſuſtentationem ſcolarium in ſcolis degentium, ſalubri concilio cenſuit providendum, juſ patronatus quod habebat in eccleſia de Eleham noſtre dioceſis, Domui, que Sclarium de Merton nuncupatur, &c. contulit. Superne intuitu pietatis, deſiderium habens precipuum---- that for the better ſupport of the ſaid houſe, and increaſe of its members, the ſaid church ſhould be appropriated to them; and as it hereupon was, in form following, appropriated. Nos igitur precipuum et pium dicti domini regis primogeniti attendentes affectum, necnon fructum penſantes quem per Dei miſericordiam ex opere tam laudabili in Dei eccleſia et cultu chriſtiane religionis ſperamus et credimus perpetuis temporibus profuturum, predictam eccleſiam de Eleham dictis ſcolaribus, &c. in nomine ſancte et individue Trinitatis, ordinamus, damus, et assignamus, eorum uſibus propriis, una cum omnibus pertinentiis et juribus ſuis, quandocunque eam vacare contigerit, perpetuo poſſidendam, &c. *Salva rationabili vicaria triginta marcarum per nos ordinanda in eadem;* with a proper vicar, as nominated by the archbiſhop on every vacancy, to be, within forty days from the time of the nomination, preſented to him for inſtitution; and every vicar, ſo preſented, to be ſworn faithfully to maintain the rights of the college. Dat. xii. kl. Maii, anno Domini M C C L X V I I I. *Cum confirmatione prioris et capituli eccleſie Chriſti Cant.* [dupl.] Dat. in feſto ſti. Auguſtini Anglorum primi doctōris, anno Domini M C C L X V I I I: this confirmation by the prior and chapter being by approbation, &c. on inſpeximus and recital of the foregoing deed of the archbiſhop. And beſides theſe original deeds under ſeal of the prince, archbiſhop, and chapter, there are very early exemplifications, and attēſtations of them, in the college treaſury. And without recourſe to that; in Cartular. Archiepiſc. Cant. p. 97. MS. Tanner [Vellum] in Bibl. Bodl. Oxon. may be ſeen enough of this matter, in the form of the receipt given by the founder for the deed of appropriation, as therein recited; the ſaid receipt being to effect following. Omnibus, &c. Walterus de Merton, &c. Noveritis me recepiſſe cartam venerabilis patris B. Cant. archiepiſcopi, totius Anglie primatis, in hec verba: Univerſis, &c. [the whole of the archbiſhop's deed being here given]. Et in hujus rei teſt. ego prefatus Walterus preſenti ſcripto ſigillum meum duxi apponendum. Dat. London. ii<sup>o</sup> die Jun. anno gratie ſupradicto. [1268].

APPROPRIATION of pariſh churches, being the act, and needing the conſent, of the dioceſan; and Elham, as given for that purpoſe, being appropriated, by an archbiſhop (Boniface) not, as his ſucceſſors, either patron of the college, or of a very patroniſing nature; and the vicarage as he ordered it, not being beneath his notice; the college, as patrons of the church, were precluded from the nomination of the vicars, by the inſertion of theſe very few words extraordinary, in the grant of appropriation, *per nos vel ſucceſſores noſtros nominand.* Dr. Burn ſpeaks of ſuch inducing of conſent: and, in this inſtance, it more than ordinarily accords with archbiſhop Parker's, and biſhop Godwin's, deſcriptions or characters of this archbiſhop. But there is a further particularity in reſpect to the church of Elham, which in ſuch a flux body as a college, and by ſuch a ſole corporation as a metropolitan, and that the patron of the college, ſhould not be unattended to.

THE church of Elham before its coming to the college, as in the preceding grant of 27 Sept. 1267, had been appropriated to the abbey of Bradſole, or St. Redegund, near Dover; and the eſtimation of the vicarage for the new appropriation to the college, being taken on inquiſition, from the  
vicars



vicars or chaplains serving under the old for the abbey; the archbishop, as diocesan, ordered it according to their estimation, (though objected to, and protested against, as erroneously excessive, by the founder), at thirty marks per annum, a considerable amount in those days, when few vicarages were more than a third of it. Its being estimated so highly seems to have made the thirty marks more optionable than the vicarial profits, not only to the then vicars, but to the then archbishop in his nomination of them. And this seems one way of accounting for the vicars so long having, and receiving, the thirty marks, and the vicarage, in the mean time, remaining to the college, as charged with them. Great, however, and beyond the value of it, as thirty marks for a great while were, yet, in course of time, by the decrease in the value of money, they became decreased below the value of the vicarage. And upon this, the vicars, as still being for the more optionable, bring it into suit, to have the vicarage, as then the college's, instead of the stipend, as then become the vicars. But it being, at length, referred to archbishop Warham, he, in the year 1532, determined for the usage. Yet so soon after as in 1559, the first year of queen Elizabeth, the college, in this re-commencement of the reformation, either induced by some well grounded expectation, or assurance, of the archbishops' nominating according to their recommendation, or in some way notified inclination; or else their desert, and generosity herein, inducing that good effect, from these their patrons, (as to be seen by proper recourse to the after presentations); grant a lease of the vicarage, which they have continued ever since to renew, to the vicar for the time being: such vicar, by a clause therein, on his part, constantly discharging the college of the yearly sum of twenty pounds, [the same as the thirty marks], as otherwise paid to the vicar, or *curate of the vicarage*, as he has been sometimes styled. And herein we seem to have the reason of the vicarage of Elham being rated at no less than twenty pounds, in the kings books; and so likewise of its standing, under the rectory, a distinct article, in the college rental. And of which, we have this account, in the following abstract, from a survey of this their appropriated estate, bearing date in 1608. ----- "The Parson hath Tithe of Corn only at this time. The Vicar hath al manner of other tithes by Demise from Merton Colledg uppon a certaine rent of monie and Corne, in stead of zoli which he should receive only without any tithe. It is in the power of the colledg whether the Vicar shall have only zoli by the yeare, or only these tithes by demise and upon a rent". ----- And to this may be added, that in and from the year 1654, the college have granted another voluntary and beneficial lease, to their vicars, of some wood land, in the parish of Elham.

BUT to come to the effect of all this being out of remembrance. Archbishop Secker, on the bare authority of archbishop Warham's register-book, took archbishop Boniface for the donor of this appropriated church, and, as such, thought him a considerable benefactor to the college, though retaining to himself and successors the nomination of the vicars. Any apprehension, however, of that sort, either in or out of this book, must appear not only from the prince's grant, but from the archbishop's deed of appropriation, as proceeding upon it, to have been no better founded, than in an entire separating the one part of that deed from the other, and then taking the words of appropriation, as words of original, and other sort of, donation: the deed itself, as in its self, referring to the prince's grant, as for, and in order to, that consequent act of appropriation. On this mistaken authority, however, of this register-book, and as wanting information of the grounds and usage as above, in favour of the college's recommending to the archbishop's nomination, the said archbishop, on the vacancy which happened in the year 1761, nominated Mr. Thomas Thompson M. A. to be presented by them. Upon which, the college, as, in general, less informed than their patron, presented his clerk without any remonstrance. Yet on further notice, sometime after, the archbishop, seeing himself in the wrong, very candidly and condescendingly said, there was a mistake, and it should be rectified, and his successors be better informed than he had been. And the matter ended in his collating Mr. Kent, as the person prevented from having Elham, to the vicarage of Betrissen in lieu of it. And on Elham again becoming vacant by the death of Mr. Thompson in 1773, the former course was reverted to of the college's recommending, and the archbishop's nominating the clerk by them to be presented to him for institution: Dr. Cornwallis being the then archbishop.

THE



BUT as advowson, without appropriation, conveyed only the grant of nomination upon vacancy, and as the appropriation of a church had not its effect without vacancy, or till the first vacancy; they had little, if any thing, of addition to their income, till after the year 1267, and consequently, there was no such establishment in that year, as in the instrument of that wrong date, and of which see before in pp. 37 and 54. as well as in what here follows after.

THERE was indeed a gradual and plentiful increase of endowment between the date of this, and the real intermediate or middle charter of 1270; the particulars of which, with what had preceded, (after the founder's confirming *nunc tempore pacis*, now in that more peaceful and less questionable time, his former donation of the manors of Maldon and Farleigh, made *temporeurbationis in regno Anglie suborte*; (5) and the foundation itself, on this precaution and enlargement, as *pro salute animarum* of himself, of the king of England, and of Richard king of the Romans, his brother, and the founder's particular friend, and a recent benefactor to his college, again, and over above, or *ex habundanti*, repeating) are thus, and in this order, not the order of either of value or conveyance, recounted in it.

## MANERIA

THE preceding then are all the grants made to the college prior to the supposed removal in January 1267: and the many which, by particular conveyance, intermediately succeeded, are, as of the founder's obtaining, all included and conferred by him in his second general charter of 1270: those of Barkby and Emildon being alone posterior to it, and as such sequently noticed in the above account.

THERE is, however, an exterior evidence, somewhat posterior to 1267, which may be here noticed, as, even in the then state of *this Place and House of the Scholars of Merton in Oxford*, seeming to point to it, as somewhat extraordinary: And where is there such and so recorded evidence of any other such Place and House, till a great while after? See in Pryne's Records ii. 1046, 1047. Claus. 53. m. 80. [quære 18] 3. Feb. 1268-9. De Cruce marmorea sumptibus Iudæorum Oxon. erigenda in *Placea Sclarium de Merton, juxta Ecclesiam suam S. Ioh. Baptistæ in Villa prædicta. Et de quadam Cruce argentea portatili eisdem liberand. et custodienda in Domo sua ibidem.* But in proof of what is here said, see the whole of it.

(5) THOUGH this charter of addition and enlargement opens with a confirmation of the before endowment, and, against this war-objection, most peacefully, and *ex habundanti*, or over and above, establishes the before establishment; yet to see the founder's care and attention, throughout, and more thoroughly, we must look back to, and proceed from, the time of the foundation. The king, Henry III. with the great seal, was taken prisoner, in the battle of Lewes, 14 May, 1264; and was not released but through his son prince Edward, by the battle of Evesham, 4. Aug. 1265; nor was there a perfect settling between the king and his subjects, till by the healing provisions in the parliament for that purpose assembled at Marlborough, 18 Nov. 1267. So soon after this great work was most happily and satisfactorily accomplished, by the means of such wise and temperate counsellors, as the prince, and the founder, so soon after this as 8 July, 1268, Walter de Merton shewed his care and caution, as a founder, in confirming with other donation, and in better time, that before made, *temporeurbationis super in regno Anglie suborte*, in a private charter of that date, as previous to this more public and royally



authorised one of 1270: and for neither of which there would have been either room or occasion, but for there having been none for any such instrument preceding them, as that bearing the date of 1267, though merely a copy of the last charter of 1274 without the ratification, and with a so much earlier date. We here therefore produce this private deed of 1268, as of prior as well as like effect to what succeeds in the greater charter of 1270.

In dorso. *Carta domini W. de Merton de maneriis de Maldon, Farleye, Leddrede & Gamelegeye.*  
[Et est duplata.]

Omnibus ad quos presens scriptum pervenerit: Walterus de Merton, illustris domini H. regis Anglie quondam cancellarius, eternam in domino salutem. Sciatis me ratam habere et firmam, pro me et heredibus meis, donationem, et assignationem, quam, temporeurbationis nuper in regno Anglie suborte, feci de maneriis meis de Meaudon & de Farlegh, in comitatu Surr. cum pertinent. ad fundationem Domus Sclarium de Merton, quam ego, ad perpetuam sustentationem sclarium in scolis degentium, et ministrorum altaris Christi in dicta domo commorantium, in predicto manerio de Meaudon fundavi, et stabilivi. Et volo et concedo, pro me & heredibus meis, quod predicti scolares et fratres predicta maneria habeant et teneant, bene & in pace, cum omnibus ad ea spectantibus, non obstante quod eis donatio vel assignatio predicta per me sibi facta fuit, tempore guerre. Sed habeant et teneant maneria predicta cum suis pertinentiis in perpetuum, tanquam ea que sibi, presenti tempore pacis, concedo, & que, secundum formam supradicte donationis, sibi remanere volo in perpetuum. Salvis michi, ad totam vitam meam, ayfiamenis domorum, &c. Terram etiam meam in Leddrede, &c. Terram etiam meam in Gamelegeye, &c. Ordinationem autem dicte domus, tam circa scolares et fratres, quam custodem eorundem, et alia dictam domum contingentia, cum potestate augendi, mutandi, et corrigendi, michi retineo, ad totam vitam meam. Et, ad plenam rei hujus securitatem, presenti scripto sigillum meum est appensum. Hiis Testibus (7 by name and title) & aliis. Dat. apud Wudestok. octavo die Iulii, anno regni prefati domini regis, quinquagesimo secundo. [1268.]

A final concord for these estates (as for others after them) is thus concluded. Et idem custos recepit predictum Walterum et heredes suos in singulis beneficiis et orationibus, que de cetero fient in predicta Domo, in perpetuum. And in Gamlingay evidences he is said to have given 300 marks of silver for his title to it.

*Pro Domo Sclarium de Merton.* [Carta duplicata, cum figillis, Henrici III. regis, et fundatoris, anno MCCLXX.]

*Confirmatio et* Nomine sancte et individue Trinitatis, patris, et filii, et spiritus sancti. Amen.  
*Amplificatio.* Ego Walterus de Merton, illustris domini H. regis Anglie quondam cancellarius, 1270. ecclesie sacrosancte profectum, ex meis laboribus, augere cupiens et exoptans, donationem, quam, de meis maneriis de Maldon et de Farlegh cum pertinentiis suis, temporeurbationis in regno Anglie suborte, nuper ad fundationem Domus, quam Sclarium de Merton dici et nuncupari volo, feci, quam et ego ad perpetuam sclarium in scolis degentium Oxon. vel alibi ubi studium vigere contigerit, et ad sustentationem trium vel quatuor ministrorum altaris Christi in ipsa residentium, fundavi et stabilivi; ad majorem et perpetuam rei securitatem, nunc, tempore pacis, ratifico et confirmo. Ipsamque Domum, pro salute anime mee, et animarum prefati domini regis Anglie, R. reg. Rom. fratris sui, et antecessorum et heredum suorum, necnon parentum et benefactorum meorum omnium, sub presentium testimonio, auctoritate et consensu illustris domini regis Anglie predicti, ex habundanti fundo et stabilio. Adjiciens etiam dicte Domui, scolariis, ministris, et fratribus, ejusdem, ad ampliacionem numeri sclarium ipsorum, et sustentationem ministrorum predictorum, necnon fratrum seu yconomorum, eorum utilitatibus et officiis immorantium, terras, possessiones, et bona tam secularia, quam ecclesiastica, tenore presentium, inferius annotata; que omnia, sive laboribus meis



MANERIA mea subscripta videlicet—manerium de Stillenton inter Thynam et Thelam cum pertinentiis: [acquired by the college before 2. Dec. 1269.] duas carucatas terre cum pertinentiis in Seton infra aquas predictas: [acquired 24 April. 1268.] maneria mea de Cukesham, Ybbeſtan, et Chedindon, in comitatibus Oxon. et Buk. [with the advowſons of their churches appendant: but the college-presentation to Chedindon in 1297 was litigated, and never after repeated. Cuxham aquired between 23 Jul. et Octab. Purif. the other two about Mic. 1270.] tres carucatas terre cum pertinentiis in Gameleggeya, in com. Cantabr. [acquired with advowſon appendant 8. Jul. 1268. M. Church appropri. to this college, by Hugh de Balſham, as dioceſan, 18 Oct. 1268, and who otherwiſe reſpected this college, in his after foundations of 1280, and 1284. Courts are now kept in this, and in their other manor in Gamlingay, of a later acquiſition]. una cum terris et redditibus quendam Ricardi Dunning et Willelmi de Mannefeld, quos ipſi in Cantabr. et partibus adjacentibus mihi nuper dimiſerunt: [acquired menſe Martii 1269-70. Courts now kept in Merton hall and other manors thereabout] duas carucatas terre cum pertinentiis in Leddrede, in com. Surr. [acquired with Gamlingay as above. Courts held here] et manerium meum de Kybbeworth, in com. Leyceſtr. eiſdem aſſignavi. [conveyed to the founder 23 Oct. 1269. and acquired by the college 1270, as in this charter. The advowſon of the church acquired but in 1771.] una cum advocacionibus eccleſiarum. de Puntelond, Dunelm. dioceſeos, et portionum ſuarum: [acquired 24 Martii 1267-8, not appropri. till about Eaſter 1268.] de Dodinton et de Horſepath, Lincoln. dioceſeos: [the firſt acquired 20 Jul. the other 26 Jul. 1268, and both together appropri. 11. Mar. following. Horſepath very early loſt.] eccleſie de Wollewarde

meis quibuſcumque, ſeu gratia benefactorum meorum, alias acquiſita, eis ſcolaribus et fratribus remanere volo, ſub forma et conditionibus ſubſcriptis, tam circa perſonas, quam circa regulam eorundem, perpetuo, annuente Domino, in poſterum obſervandis.

*Ratificatio.* Ad horum autem omnium memoriam et ſecuritatem ſempiternam, ſigillum preſati domini regis Anglie, in ſui conſenſus et approbationis teſtimonio, una cum ſigillo meo preſenti pagine eſt appenſum. Dat. anno Domini, milleſimo, ducentefimo, ſeptuageſimo.

TO this more general charter, which, on enlargement of the territory, capacitates the college, though ſtill in the dioceſe of Wincheſter, to have its ſeat in any other of its places proving more commodious, though they be not in that dioceſe, nor under that dioceſan, there are no ſuch ſeals of particular dioceſan and the chapter, as were then thought requiſite, on the firſt and entire location of ſeat and endowment all within the dioceſe of Wincheſter. As hereby confirmed, however, and ſtill in force, the firſt charter is thus referred to, in the caſe of a new warden, in this. Et deinceps, de ſua preſentatione, admiſſione, et inductione, fiat quod per bone memorie I. quondam Winton. epiſcopum et ejus capitulum, alias in dicte Domus institutione, approbatum eſt et ſignatum.

BUT between the two foundation-charters of 1270 and 1274. comes in

In dorſo. *Carta Regis de Acquietancia Seclorum.* [Et eſt quadrupl.]

Carta, Domini Henrici regis Anglie, facta cuſtodi Domus Sclarium de Merton & ſcolaribus & fratribus ejusdem domus, de acquietatione, ſeu acquietancia, ſeclorum omnimodarum ad dominum regem pertinentium. Dat. per manum noſtram, apud Weſtmonaſterium. 21. Octobr. 55. Henr. III. [1271.]

[acquired



[acquired 11 Oct. 1266. appropri. kl. Jun. 1268.] et ecclesie de Lappeworthe, de Wigorn. dioc. [acq. 7. Jul. 1269.] et ecclesie de Stratton, Sar. dioces. [acquired 1269. appropri. 26. Oct. 1270.] et aliarum quarundam, que contemplatione mei rogatus, a prefato domino rege Anglie, et domino Edvardo, primogenito suo, ac aliis nobilibus et amicis meis, sibi sunt caritative concessa. Each of the royal family, from a kind and friendly regard to the founder and foundation, bestowing an advowson of very considerable value upon it: the king (Henr. III.) that of St. Peter's in the East Oxon. with the manor of Holywell and courts &c. belonging: [granted 7. Sept. 1266. and appropriated, with the church of St. John Bapt. de Merton, 13. Sept. 1266.]: his eldest son, prince Edward, that of the church of Elam, in the diocese of Canterbury: [granted 7. Sept. 1266. appropri. 20 April 1268]: his younger son Edmund earl of Lancaster, subsequently in 1274-5, that of the church of Eildon, in the diocese of Durham: [not appropriated till 1331.]: and the king's brother, Richard king of the Romans, the advowson of the church of Horsepath, as above, and which seems to have been very early lost. [The seals of all of them, as to these grants affixed, are depicted in Sandford's Geneo-logical History.]

AND for such their friendship and beneficence, it seems to have been, that Robert de Percy, son and heir of Peter de Percy, a year or two after the date of the here recurred to charter of 1270: at the instance of the founder, and for eight score marks of silver received of him, conveyed to his college, dominium de Barkby cum redditibus Leycestrie. al. manerium cum pertinentiis. habend. et tenend. dictis scolaribus et fratribus, et domui sua predictae, [still at Maldon] de se et heredibus suis, in liberam et perpetuam eleemosinam, ad sustentationem trium capellanorum, divina celebrantium, in dicta domo, pro salute animarum dominorum suorum illustrium, prefati domini H. regis Anglie, et domini R. regis Romanorum, et pro anima domini Henrici de Alleman. [then lately murdered by the Montforts at Viterbo], et aliorum liberorum et consortum regum ipsorum.

AND note that at the end, and after the date, of the said second charter, of 1270, there is a memorandum added by the founder, of a like provision for three chaplains to be perpetually supported out of his manor of Kibworth, pro anima domini Henrici de Alleman. et domini R. regis Romanorum patris sui, et aliorum benefactorum meorum &c.

AND in respect to the manor of Cuxham, included in this general charter of 1270, the founder's deed of conveyance of it to the college may be noted to proceed, as follows.—intuitu Dei, et pro salute anime mee, et animarum magnifici principis, R. regis Romanorum, et antecessorum et heredum suorum. f. Deo, et Domui quam ego apud Meaudon, in com. Surr. fundavi: and that in order to this conveyance, Stephen de Chenduyt had one licence from this king, as lord of the Honor of Walingford, and chief lord of the fee of the manor of Cuxham, to convey the same dilecto et familiari nostro domino, Waltero de Merton, illustris domini H. regis



regis Anglie, fratris nostri, quondam cancellario; and Walter de Merton another, to convey the same to his college; and both under very fine impressions of his great seal on red wax, the one in 52, and the other in 54, H. III. and that, in the fine, or final concord, for the same, as to be held of the king of the Romans, (it being made with his consent, between the founder and the college, in cur. domini regis apud Westm. in octab. pur. be. Marie, 55 Henr. III. 1270,) the college receive the founder and his heirs in singulis beneficiis et orationibus, que de cetero fient in predicta domo, in perpetuum. Et hec concordia facta fuit, presente predicto rege Alemann. et eam concedente.

AND in further shew of a mutual regard and attachment between these great persons, I have, from Collectanea MSS. Rymer, a copy of a letter of office of this king, dat. in the 6th year of his reign, with this direction. Discreto viro W. de Merton, Cancellario Regis Anglie, amico nostro carissimo.

BUT in other view of this second, and general, charter of 1270. In confirming the donation, &c. it further augments, as well as secures, the preceding establishment of 1264, as still at Maldon: and in furnishing another nomination, *pro salute animarum*, than that of 1264, it quite precludes any intermediate instrument of the later date of 1267, from referring to, and adopting, the still later and subsequent nomination of 1270, instead of the earlier and immediately preceding one of 1264. And then in respect to the conveyances, as thus, in this charter of 1270, all together confirmed to the House, as then at Maldon, they were each of them individually, and almost each of them subsequently to 1267, made to the said House, as then, at the time of each several date of them, there subsisting. And of two of the *Dodinton* evidences, dat. circa fest. S. Andree, 54 Henr. III. 1269, it is in particular observable, that *Peter de Abindon* is therein styled, *magister Petrus custos domus de Meaudon*; and consequently, that he was warden of the house at Maldon, for some years after the supposed removal at that time to Oxford, and but very little before the *thereupon to be supposed* re-settlement at Maldon, in 1270, as after followed by a final settlement at Oxford, in 1274, and yet in the very words of, and without the least variation from, that, as found, in the supposed instrument of 1267.

AND in other way of distinguishing the fact from the falsity.—In supposing scholars and brethren, on a less digested scheme, and with a less improved rule, divided from each other, the one at Oxford, and the other at Maldon, in 1264; and then, in the too short space of three years, on a most digested scheme, and most improved rule, the two united together in Oxford, in 1267; and after that, (to follow the supposition as it must be followed), these two, in a very perverse and retrograde order, again divided, as before, in 1270; and then again united, as before, and without any the least difference, in 1274.—In the whole of the supposition, we see a so totally pervading inconsistency and confusion, and these so entirely removed, by taking the three royally authorised and established charters, in



their natural, necessary, and uninterrupted, order, as to give a sanction to the so doing, even without the vast variety, and uniform continuity, of other evidence, which presents itself, for ridding them of what, for want of more inspection, has so much disordered, and prevailed against, them.

BUT as now come to the real time of those wrong dated statutes, as most evidently but a subsequent copy of the third and last charter of 1274, as ratified under the great seal, as well as the founder's.—Its introductory recapitulation, and approbation, of the before foundation, and then adjustment, of the House, will shew, that in looking back to the preceding charter, as that does to the first, the proper order is preserved: Richard king of the Romans not being conjoined with his brother H. king of England, in any prior charter than that of 1270, which this refers to. And to take from this introductory part of the last charter something still more leading to detection: Henry the third, though rightly spoken of, as late king of England, *quondam rex Anglie*, in 1274, could not be so spoken of in 1267, as four or five years preceding his decease; any more than the founder's episcopal seal could be rightly affixed to any instrument of that real year, some seven years before he was a bishop, and could have any such seal belonging to him. And as this charter of 1274 is the last of the three in succession; to shew it in the very words of it, a confirming, and removing, and improving, instead of the creating one; and to correct, as by the preceding and other contrasts of word, fact, and intention, a notoriously wrong reading, in the said introductory recapitulation and approbation; the very words of it, at length, shall be here given in the note. (6).

## SETTLED

(6) *Pro Domo Sclarium de Merton.* [Carta duplicata, cum sigillis, Edwardi I. regis, et fundatoris, anno MCCLXXIV.]

\* *Recapitulatio* In nomine gloriosissime et individue Trinitatis, patris, et filii, et spiritus sancti.  
*et Approbatio* Amen. Ego Walterus de Merton clericus, illustris domini regis Anglie quondam  
 1274. cancellarius, de summi rerum et bonorum opificis bonitate confusus, ejusdem gratie, qui vota hominum pro sua voluntate disponit et dirigit, fidenter innisus, animique revolutione sepe sollicitus, si quid sui Nominis honori retribuam, pro iis, que mihi in hac vita habundanter retribuit, Domum quam Sclarium de Merton intitulari et nuncupari volui et mandavi, et quam, in meo solo proprio, meis laboribus acquisito, viz. apud Maldon, in comitatu Surr. ad perpetuam sustentationem sclarium in scolis degentium, pro salute anime mee, et animarum domini Henrici, quondam regis Anglie, necnon et germani sui Ricardi, Romanorum regis inclyti, et antecessorum et heredum suorum, et parentum et benefactorum meorum omnium, ad honorem et gloriam Altissimi, ante (turbatione[m] in Anglia nuper suborta[m]) fundavi et stabilivi, nunc (pace Anglie reformata, ac pristina turbatione sedata) animi stabilitate perpetua approbo, stabilio, et confirmo. Locumque sibi habitationis et Domum Oxonie, ubi universitas viget studentium, in meo territorio proprio, ecclesie sancti Johannis contermino, concedo et assigno. Cui siquidem Domui, seu sclaribus in eadem (Altissimo concedente) in perpetuum moraturis, maneria mea de Maldon et de Farleigh cum suis pertinentiis, que pro ipsorum sclarium et ministrorum altaris, qui in ea residentes erunt, sustentatione perpetua, tempore dicteurbationis, contuli; etiam in presenti, pace regni reformata, concedo, ipsamque collationem, spontanea et libera voluntate, approbo; ac, deliberato judicio, ratifico et confirmo. Que etiam maneria, dictis sclaribus, una cum aliis per me, sibi acquisitis, et acquirendis, apud



apud eosdem scolares et fratres perpetuo permanere decerno, sub forma et conditionibus infra scriptis, tam circa personas, quam circa regulam eorundem, (annuente Domino) futuris temporibus jugiter observandis.

*Ratificatio.* Ad horum autem omnium memoriam et securitatem sempiternam, sigillum serenissimi principis, domini Edwardi, regis Anglorum illustris, in sui consensus et approbationis testimonium, una cum sigillo meo, presentibus est appensum. Actum anno Dni M° CC° LXX° quarto.

Instead of which, the ante-dated copy, which has verbatim all the rest of the charter, from the beginning to this ratification, ends with, Actum London. mense Januar. anno Dni millesimo, ducentesimo, sexagesimo septimo.

\* *Recapitulation and Approbation* of what had been before done, and was then doing, in *this foundation*: by this foundation, or the founding of this House, here therefore intending, not only the strict and proper founding, or creating and establishing it, as by the first charter, of incorporation and endowment, in 1264; but the further improving it, as by the middle charter, of amplification, in 1270; and the final perfecting it, as by the last charter, of translation, in 1274.-----and with a rule, or body of statutes, in each, adapted to the then state of the House, as by and in each of them.

And on such review of it, as good in its original, better in its enlargement, and best of all in its translation; it is here in 1274 perfected, as it was before in 1270 improved, with approbation, confirmation, and continuation, of what had preceded.

And in further regard to the word foundation, as here in use, not only for *dotation and foundation* in the original, as before at the first charter of dotation and foundation, in p. 61; but for every thing, to the time of this *recapitulation and approbation*, done for confirmation, continuance, and advancement, as in, and by, the two succeeding ones; it is to be observed of them, the two succeeding ones, that they are not only charters of the founder, but, like the first, by authority of the crown, and, as such, continue the House, that corporation, *the House of the Scholars of Merton*, which the first created it: and that therefore, though the word *foundation* may more immediately intend, either the creating the corporation; or the corporation itself, as at first created, by its first and creating charter; or that charter itself, as from the intent and effect of it, so likewise called; yet there may be no such objection to the applying it to the three charters and what was effected by them, as taken together, in their creation and continuation of this House; as there might be to the attributing that word to something foreign, as well as anterior, to what alone, foundation, college-foundation, proceeds from, or commences with, or is begun by.

For though religious and learned foundations become, and are called, such, from the time of their foundation, and nomination, by charter of incorporation, &c. to the time of their dissolution; yet they can no more begin to be such, before the one; than they can continue to be such, after the other: however they may be preferred, in either word or deed, from *what* preceded, or led to, their foundation-existence, prior to such their existing state; or however *that* may be reputed of, from their after existing state; or however *they*, when passed and done away, may be spoken of, from their once, and before, existing state.

And therefore to instance in what of this seems most to call for it.-----If Peter house, commenced, as a college, but from its chartered incorporation, in 1284, how could Hugh de Balsham, or any other,



SETTLED, however, as, by this, the foundation might seem to be, the founder, in furtherance of the establishment, and agreeably to what had been done in other places of religion, had it confirmed both by the metropolitan and diocesan in 1276 (7); and through the first of them, as his appointed patron of it, he had just before, in the same year, sent down a nomination, of a subwarden, *unus senior seu vicecustos*; three bursars, or the three, as before in the statutes *assignandi*, and here *ad recipiendos exitus et proventus terrarum et possessionem ejusdem domus, deputati*; and the three deans, as now so called, but here by the founder, *ei qui singulis vicenariis, vel alteri numero preesse debent*; and orders therewith for the keeping of the muniments and common seal, and other regulations, as at this present time observed: and deceasing the next year, he further benefited his said House, in his will, by very large effects left to it to be realized, &c. for the securing and bettering the state, and augmenting the number, of those belonging to it: and all of which effects were well and duly accounted for by his executors in 1282. see p. 55 of this paper.

other, by any prior, and alien, or ante-collegial, proceeding, begin the foundation of it (i. e. as a college) in 1257, or in any year precedent to 1284? And so of the colleges by incorporation, elsewhere than in Cambridge, how could any one of them be begun, as a college, but by that incorporation or *incipient* act and principle, from which alone the college-foundation, creation, being, and beginning, proceeded?

THOUGH therefore on reference to the evidences of other colleges, Merton college must have the like pretensions to priority, whether it dates its commencement, as a corporation, from 1264, or from 1274; yet, as, on looking back to the times and occasions of the college' making the first, the æra of dating its undoubted creation in, and uninterrupted continuance from, though with its scholars, or the scholar part of it, only in Oxford, all is manifested to be right and regular; and, as, on looking back to the times and occasions of departing from this æra, all is manifested to be wrong and irregular; should there not be a re-assertion and resumption of what, but for the most palpable wrongs and misapprehensions, must have ever had an uninterrupted transmission; and 1264 be gratefully adhered to, as the certain date of existence, not only in the centenary celebration of foundation, but on every occasion of a right and full computation? In law-proceeding, however, on account of the late variations, the advice perhaps might be, to go no further back than to the time of this college' being universally allowed a university college, in 1274: or at least not to depend upon the first æra, without duly and properly deducing it to the other. But, that the corporation, as by its preceding charters erected and enlarged, instead of being discontinued by the subsequent charter of removal, (which made it such as all the other now subsisting colleges in the universities were deduced from) was thereby actually confirmed, and continued on, with every thing, which, as to a college incorporate, had thereto been granted to it: must have been seen to satisfaction, in the foregoing extracts. And it may be hereto added, that besides the general power reserved to the founder, *mutandi, augendi, et corrigendi*, (as not only in the original grant, but in the after-confirmation, of his endowment) every charter expressly provides for the continuance and perpetuity of the foundation, upon change, as in each of them allowed for, of the then seat of it.

(7) AS all the confirmations, except the pope's, are, *mutatis mutandis*, in like form, that of the metropolitan may be here produced, in shew of them all.

In dorso.



In dorso. *Confirmatio Archiepiscopi Cantuariensis.* [Et est dupl.]

Omnibus Christi fidelibus ad quos presentes Littere pervenerint: Frater R. miseratione divina, Cantuar. archiep. totius Anglie primas, salutem in domino sempiternam. Cum venerabilis frater noster, dominus W. de Merton, Rossensis episcopus, adhuc in minoribus agens, dum in celeberrime memorie domini H. illustris quondam regis Anglie obsequio, cancellarie fungeretur officio, domum, seu quendam locum venerabilem, quem Domum Sclarium de Merton censuit nuncupandum, in nostra provincia, apud Oxon. Lincoln. dioces. ubi viget studium generale, de novo fundaverit atque construxerit; ac scolares non nullos docibiles in artibus liberabilibus, Canone, et Theologia, studentes, nec non simul communiterque degentes, instituerit in eadem, ex quibus, divina favente gratia, copia doctorum haberi poterit, qui, velud stelle in perpetuas eternitates mansuri, valeant ad iustitiam plurimos erudire, domumque, seu locum venerabilem predictum, terris, possessionibus, ac variis proveniuntibus, ad ipsum jure hereditario, ac alias, persone sue spectantibus, in tantum dotaverit atque ditaverit, quod studentes inibi, imperpetuum congrue poterunt sustentari; sitque nostri debitum officii, caritatis et pietatis opera comprobare; precipue que ecclesie Dei exaltationem respiciunt et honorem: Nos eandem fundationem et institutionem ratam et gratam habentes, ipsam approbamus, et tenore presentium confirmamus: eidemque, quatenus ad nos pertinet, stabilitatis et firmitatis perpetue robur plenissime impertimus. Dat. apud Otteford. xiiij<sup>o</sup> die Martii, anno Domini M<sup>o</sup>. CC<sup>o</sup>. septuagesimo quinto.

ROBERT KILWARBY, the same archbishop, and as such made patron of the college, again confirmed it in 1276: Ric. de Gravesend, bishop of Lincoln, confirming it, as diocesan, at the same time. After this it was again confirmed by J. Peckham, the next archbishop, and his provincial synod of bishops, convoked by him at Reading, in 1279: the seals of all of them are still remaining to this confirmation. And not till some two or three years after the death of the founder, but then too soon, if it could have been avoided, the college, in 1280, to complete their series of this kind, applied for, and, as more to the purpose of the grantor, than of the receivers, easily enough obtained, the pope's bull in addition, and thus in the former part of it proceeding-----

Nicolaus [III.] episcopus, servus servorum Dei, dilectis filiis, custodi, scolariis, et fratribus, Domus Sclarium de Merton, Lincoln. dioc. salutem et apostolicam benedictionem. Cum a nobis petitur quod iustum est et honestum, tam vigor equitatis, quam ordo exigit rationis, ut id, per sollicitudinem officii nostri, ad debitum perducatur effectum. Exhibita siquidem nobis vestra petitio continebat, quod quondam Walterus de Merton, clericus, pia meditatione revolvens, et ardenti desiderio affectans, aliquid obsequium prestare domino, quod foret ipsi domino acceptabile, ac universali ecclesie fructuosum, et attendens, &c. quod per viros litterarum scientia redimitos, fides catholica robur suscipit, et ecclesia ipsa multipliciter decoratur; in villa Oxon. ubi solempniter viget studium generale, de consensu, tam bone memorie R. episcopi Portuen. tunc archiepiscopi Cant. metropolitani, et episcopi Lincoln. diocesani loci, quam carissimi in Christo filii nostri E. regis Anglie illustris, predictam domum, in qua degitis, in solo proprio, fundavit, &c. And then after more of the foundation, and with confirmation of it, he concludes, as in other instances: Nulli igitur omnino hominum liceat hanc paginam nostre confirmationis infringere. Si quis autem hoc attemptare presumpserit, indignationem omnipotentis Dei, et beatorum Petri et Pauli, se noverit incursum. Dat. Rome, apud Sctm Petrum, ii. idus Aprilis. pont. nostri. anno tertio. [Et est dupl.]

ARCHBISHOP Peckham, we see, very soon after his becoming such, and, as such, successive patron of the college, thought it of consequence enough to have it confirmed by him and his suffragans in the synod before mentioned. And to shew still further the degree of estimation in which he held the warden and scholars of it, he in his injunctions of 1284, no less significantly invokes them, than as, *preclaram cleri Anglie portionem.*

U

ARCHBISHOP



ARCHBISHOP Winchelsea, the next succeeding patron of this approved establishment, *Domus de Merton Oxonie, (patronatus nostri)*, exerted himself effectually with Anthony Beck, that great bishop of Durham, who had impeded the warden, &c. in having possession of the church of Ponteland, with its portions or prebends, as above acquired and appropriated to their House: the said bishop giving up his opposition, and admitting them, as desired by the said archbishop. "Advertentes, si placet, quante devotionis zelo, eadem ecclesia, piis affectibus, eisdem scholaribus, ex causis premissis, in usus proprios fuerit assignata. Dat. Glouc. 11 Id. April. A. D. 1301."

BUT there was a still longer delay, before Emildon, the other great northern living, as above given for appropriation, by Edmund, the younger son of Henr. III. and the first earl of Lancaster, was really appropriated; as, first, the grant itself was much contested by the succeeding earls of his house; and when after their claim, at a very great expence to the college, was quieted; Lewis de Beaumont, the then bishop of Durham, thought himself restrained from appropriating, without a commission from the see of Rome. This however has furnished an opportunity of shewing the great estimation in which the college was with the king, (Edw. III.) the university, the archbishop, as metropolitan and patron, and the bishop of Durham, as diocesan; each of them aiding it in supplicating the wanted commission, and that in terms which (as of credit to the foundation, whatever may be thought of the supplication), are here in part extracted.

*Ad Papam, pro Collegio de Merton.*

Ppe Rex, &c. Collegium dilectorum nobis in Christo scolarium domus de Merton, in universitate Oxon. ut esset ecclesie militantis, et doctrine salutaris, promptuarium, ex pia consideratione fundatoris, et inspirante deo, ut credimus, ad dandum scientiam salutis plebi ejus, salubriter institutum; a quo educti sunt hactenus viri perfecti, quorum doctrina longe lateque ecclesiam pervenit spiritualis gratie multiformis; quibus poterimus sinceris affectibus recommendamus vestre sanctitati, suppliciter exorantes, quatenus ipsorum petitionibus, Dei honorem, et ecclesie decorem, concernentibus, clementie vestre porrigendis, Apostolica sollicitudo universarum ecclesiarum semper intenta, paternis, si placet, visceribus, condescendat. Conf. &c.

Dat. apud Westmonasterium, undecimo die Decembris.

*Ad Cardinales, pro eodem Collegio.*

Rex. tali Cardinali salutem. Pro negotiis dilectorum nobis in Christo Custodis et Scolariū de Merton, per ipsorum procuratorem paternitati vestre serius exponendis, Dei honorem, ut credimus, et ecclesie decorem concernentibus, ex quibus etiam Domino Summo Pontifici nostras preces optulimus speciales, amicitiam vestram corditer deprecamur; quatenus, in eisdem negotiis dirigendis, dicto procuratori assistere velitis, auxiliis et consiliis, pro loco et tempore, opportunis, et ut exauditionis gratiam, admitti valeant, partes vestras interponere, si placet, cum consueta benevolentia efficaces.

Dat. apud Westmonasterium, undecimo die Decembris.

*Domino G. Albanens. Episcopo, per Regem Anglie.*

*Domino P. Episcopo Penestrino, Domini Summi Pontificis Vicecancellario, per Regem Anglie.*

These letters from the King to the Pope and Cardinals are printed in Rymeri Fœdera. Tom. IV. p. 456. 4. E. 3. 1330.

Domino



*Domino Petro Episcopo Penestrino, ac Domini Summi Pontificis Vicecancellario, per Symonem [Mepham]  
Archiepiscopum Cantuariensem, pro eodem Collegio.*

Sane, dudum pie memorie, dominus Walterus de Merton, quondam Henrici illustris regis Anglie cancellarius, Deo studens boni operis executione complacere, quandam domum in universitate Oxon. &c. fundavit. Ex cujus pietatis operibus summe redolent scientie flores in domo predicta, ac in ipsa, et ex ipsa, scolares in magno numero cotidie, cibo pascuntur pariter et doctrina; adeo quod ejus palmites excrecentes in toto regno fructus uberrimos attulerunt, &c. Dictam igitur domum, et habitantes in ea, zelo specialis benevolentie prosequentes, eo quod patroni sumus ejusdem, &c. vestre paternitatis reverende in quantum possumus affectuosius supplicamus; quatenus nuntium seu procuratorem dictorum scholarum ad sedem apostolicam cum presentibus accedentem, dignemini, si placet, benigno spiritu exaudire, & ipsum, in prosecutione negotii dicte domus, velitis juvare, ad beneplacitum in hac parte summi pontificis optinend. Script. apud Lamhuth. xix kl. Januar.

*Ad Papam Johannem XXII. per Lodovicum Episcopum Dunelm. pro eodem Collegio.*

Sanctissimo, &c. Sane, pater sancte, recolende memorie dominus Walterus de Merton, quondam celebris memorie domini Henrici illustris regis Anglie cancellarius, quandam domum scholarum studentium in universitate Oxon, quam Domum Scholarum de Merton nuncupari decrevit, divinitus, ut creditur, inspiratus, fundavit; que adeo palmites produxit, quod totam quasi ecclesiam Anglicanam eorum fructuosus operibus et doctrinis perlustravit: Quam pie memorie dominus Edmundus dicti domini Henr. reg. fil. comes Lanc. &c. Ecclesiam de Emildon Dunelm dioc. &c.

ON all this application, the pope, as may be supposed, granted to the diocesan his commission for the desired appropriation; and not without repeatedly noticing therein the petitions of the king, and of the university of Oxford, (and which is all that is found of the university's application.) "cuf-  
"todi et scolaribus super hiis perpetua sollicitudine providere, eorundem regis et universitatis supplica-  
"tionibus inclinati, fraternitati tue per apostolica scripta committimus et mandamus, &c. Dat.  
"Avinion. 23. Junii, 1331. "

AND amidst a constant succession of royal grants of confirmation, license, &c. through every reign, from the foundation of the college, and with much expression of grace and favour towards it, we cannot conclude with any thing so abundant, as the following most remarkable preamble to Pat. 22. Henr. VI. exempting the college and its estates from taxation:

*Et in dorso. Irrotulat: in memorandis Scaccarii, videlicet inter Recorda de Termino Sancte Trinitatis, Anno vicefimo tertio Regis Henrici Sexti, Rotulo septimo, ex parte Rememor: Regis.*

Henricus, Dei gratia, rex Anglie et Francie, et dominus Hibernie: Omnibus ad quos presentes litere pervenerint, salutem. Sciatis, quod nos ad interne considerationis aciem reducentes, quod plurime colume sacrosancte ecclesie, in Domo Scholarum de Merton, in Oxon. fuerunt educate, omni genere scientiarum ac virtutum fulgentes, et totum Christianissimum [Christianum orbem,] per eorum scripta et notabilia volumina illustrantes; totamque ecclesiam orthodoxam supportantes: que etiam domus fundata est, nedum pro salute anime domini Walteri de Merton, quondam domini Henrici progenitoris nostri cancellarii, verum etiam pro salute animarum dicti domini Henrici, necnon domini Ricardi fratris sui regis Romanorum, et progenitorum ac heredum suorum, et sic pro salute anime nostre, ac pro animabus heredum nostrorum: considerantesque, quod bona et possessiones dicte domus, ad tantum detrimentum notorie pervenerunt, et ad tantum diminuta existunt, quod nequaquam sufficiunt,



sufficiunt, hiis diebus, ad onera consueta et dicte domui incumbencia, debite supportand. Nos volentes inopie tam celebri collegii, quod regnum nostrum Anglie, ymmo totam ecclesiam orthodoxam, in ejus alumpnis, ita insigniter decoravit, in aliquo subvenire; ne, quod absit, collegium illud, cujus sancta statua, ceremonie, ac religiosus sociorum convictus, in aliis regni nostri utriusque universitatis postea fundatis collegiis celeberrimis, mutative, velud ymago parentis in prole, relucet, quodque ita singulariter resplenduit per orbem, modo maneriorum suorum senio contractum, languidum ac attenuatum, multisque aliis incommodis circumventum, consolatore videatur penitus destitutum; ad honorem Dei omnipotentis, de gratia nostra speciali, et ex mero motu nostro, dedimus et concessimus, &c.

Teste me ipso, apud Westm. quinto decimo die Augusti, anno regni nostri vicefimo secundo.

Subscrib. per ipsum Regem, et de data predicta auctoritate parlamenti. Irrot.

[The broad seal is still remaining to this patent, but not entire.]

N. B. In point of evidence-----it is dated some length of time before the writing of Ross; and but 180 years, and so but little more than a third of the time now elapsed, since the college-creation in 1264.

AS before referred to, for adding to the college-endowment, (but not before inserted,) and as worthy of the college-notice and remembrance, the will of its founder, is here, from copies of that mentioned in p. 55. of this paper, to the preceding evidences of its form and formation, attentively subjoined. It is in the same strain of piety and goodness as other his remaining acts, and has abundant evidence of attention to friends, relations, benefactors, and dependants; of great condescension to those in need of his favour, and of respectful regard to those above the need of it; and, in respect to posterity, and the posterity of his family in particular, of a continued looking forward to the good to be derived from the utmost extension of his munificence to his college.

*Ultimum testamentum Walteri de Merton, collegii de Merton apud Oxoniam Fundatoris.*

In nomine patris, filii, et spiritus sancti. Amen. Ego Walterus, Dei gratia, Roffensis episcopus, spiritum meum prefate *sancte* et individue Trinitati commendans, corpus meum in ecclesia sancti Andree Roff. si extra com. Southampton. de me humanitus contigerit; si autem infra com. predictum, cum parentum meorum corporibus, in ecclesie sancti Michaelis de Basingstoke, si hoc mihi misericordia Dei concedat, relinquo sepeliendum: legans ecclesie prefate de Basingstoke calicem unum prec. V. marc. divinis obsequiis deputand. Et preterea XXII marc. et dimid. ad sustentationem V. capellanorum in eadem ecclesia, vel vicinis, celebrantium per unum annum; ita quod si in partibus illis tot idonei ad hoc non reperiantur, hii qui deerunt, apud Oxoniam provideantur, et celebrent ibidem. Fiat quoque provisio omnium predictorum capellanorum per magistrum Willielmum de Ewell, vel aliquem alium amicum meum vel benevolum, sine mora.

Item XXII marcas et dimid. ad sustentationem V. capellanorum, in ecclesia Roffen. et aliis, divina celebrantium per unum annum. Successori meo episcopo, et ecclesie mee Roffen. mitram meam pretiosam, una cum baculo meo pastorali pretioso, et unum de annulis meis. Priori vero et conventui Roffensi centum marcas, ad providendum aliquem redditum vel possessionem, unde respiciatur conventus Roffensis singulis annis in memoriam obitus mei, et unde, die illo, decem solidatos panis distribui faciant pauperibus pro anima mea. Priori vero ejusdem loci unum de palfridis meis, et unam cuppam argenteam cum pede et coopertorio. Operationibus ejusdem ecclesie Roffensis X marcas.

Pauperibus de Stayndrop XX marcas. pauperibus de Seggefild XL marcas. pauperibus de Hantwyse XXV marcas. pauperibus de Codinton XX marcas. pauperibus de Bernyngham X marcas: ad ornamenta ejusdem ecclesie centum solidos. pauperibus de Braunceton XV marcas. pauperibus de Fyneysbyry XL solidos. pauperibus prebende Sarum XXX marcas; viz. XVIII marcas apud Bere, et XII marcas apud Cermenistre.

Canonicis



Canonicis de *Tortington* in Suffex. XL solidos. fratribus minoribus Oxon. XV marcas. fratribus minoribus London. XV marcas. fratribus minoribus de Hertepol. X marcas. fratribus predictatoribus Oxon. X marcas. fratribus predictatoribus de novo castro super Tynam X marcas, et restituantur eisdem epistole Pauli glossate. monialibus s. Elene de London. C. solidos. monialibus de Wynteneye XL solidos.

Item forori mee de Wortyng XL marcas. Filie sue non maritate XXX marcas, ad se maritand. vel alias sibi in vite necessariis providend. que non ad aliud ponantur. Edythe forori mee LXXX marcas, ad terram sibi emendam, vel alias sibi providend. cum securitate in vite sue necessariis, que non ad aliud ponantur; et nihilominus habeat terras quondam Willielmi Hugonis, et Alexandri filii Walteri, quas sibi adquisivi. Filio suo primogenito XXX marcas, ad providendum sibi simili modo, ad terram sibi emendam, vel sibi in necessariis cum securitate ad vitam suam, que ad aliud non ponantur. Filie sue apud Wylton XX marcas, per quas sibi, in domo de Wylton, in victu et vestitu, uberius provideatur. Agneti forori mee XX marcas. Alano de Portesmue LX marcas, ad terram aliquam vel redditum ad opus suum emend. que ad aliud non ponantur. Hugoni Chastayn V marcas, et molendina de Littlemelne, et sciatur quod ea non habui in feodo, sed tantum ad terminum vite mee. Thome fratri ejus XL marcas. Thome de la Dune V marcas. Joh. Jakelin et uxori ejus X marcas, que eis secretius liberentur. Plesentie de London. X marcas. Hawisie forori ejus V marcas. Alano de Langford et uxori ejus X marcas. Joh. le Coppe IV marcas. Nicholao de Theddene et uxori ejus et pueris suis XXX marcas. Johanni de Sandeford et uxori ejus centum solidos. Castanie de Odyngham V marc. Matilde de Basinges centum solidos. Christine forori ejus centum solidos.

Item Magistro Petro de Abendone unum de palfridis meis, et unam cuppam argenteam cum pede et opertorio. Magistro Andr. Offic. unum ciphum argenteum cum pede, et XL marcas. Johanni de Catelonia XL marcas. Domino Will° Sarum V marcas, et unum ciphum argenteum cum pede. Will° Dodekin centum marcas. Johanni de Merstone capellano L marcas. Roberto filio Nigelli totum terminum quem habeo in terris suis, una cum inbayamento [imbladamento] earum, et cum carucis, et omnibus aliis, que habeo, et ad me spectant, in terris suis predictis; et preterea XXX marcas ad terras suas instaurandas. Rogero Taylard XL marcas, una cum illis V marcis annuis, quas habet ad vitam suam apud Kybworth. Will° de Mertock XV marcas. Waltero clerico XXX marcas. Will° de Saddeburg XL marcas, et renuntietur sibi debitum in quo mihi tenetur de decimis de Butterwyk, nisi forte illud in vita mea solverit. Johanni de Stanhope XX marcas. Petro Clerico XL solidos. Johanni Coco XXX marcas. Waltero Coco XX marcas. Johanni de Cancia V marcas. Hen. de Elham X marcas. Johanni Hydeys centum solidos. Hugoni de Borstall C. solidos. Adamo Sauvage C. solidos. Will° preposito de Bromlegh XL solidos. Adamo de le Wytheyenebiry XX solidos. Petro Pistori et Johanni Pistori lego terminum quem habeo in terra domini Johannis de Wythefeld apud Bere, cum imbladamento terre predictæ. Petro Marefcallo LX solidos. Philippo de Dertford L sol. Petro Coco XL sol. Henrico Coco X sol. Simoni Brixatori XX sol. Johanni Sciffori XX sol. Will° Watefo XL sol. Thome Catel cent. sol. Ade de Palefreure XL sol. Joh. de Mertham II marc. Joh. de Makeney II marc. Galfrido Carectario II marc. Elie Page XL sol. Tho. Page XX sol. Will° Wodegate I marc. Roberto de Chetyndon XX sol. Ric. Carectario XX sol. Waltero Carectario duplicentur stipendia sua anni obitus mei. Ceteris vero tam Carectar. quam Carucar. in maneriis meis dentur singulis preter stipendia sua V sol. [summa solut. XVI. lib. V. s.]

Phillipo de Codinton XV marc. Item Will° de Grafton fructum autumnii proxime futuri firme mee de Wolveton, et preterea X marc. Gerardo Capellano V marc. Ricardo de Bradmere XL sol. Will° de Ofemundelye I marc. Will° de Haketon XL sol. Ric. Ruffel X marc. Will° Coco qui est apud Ofeney I marc. Rob. de Waltham cent. sol. Rog. Bidhey XX sol. Will° Carectario X sol. Matri Alani de Langford IV marc. Item Joh. de Watevile XL marc. Tho. Forestario L sol.



Ric. de la Hoke XX fol. Filie Dulcie de Maldon C. fol. Sorori Johannis de Farnham et viro suo XXX marc. Matri Walteri de Odyham unum ciphum argenteum sine pede. Uxori quondam Petri de Codynton XL fol. Roberto de Creuker X marc. nisi aliter inter nos in vita mea componatur. Saer de Harecurt X marcas. Ad providendum duabus filiabus domini Stephani de Chendwynt in maritagium, aut alias cum securitate in victu suo, LXXX marc. sc. uni earum XL marc. et alteri XL marc. Et si per minus eis provideatur, residuum habeat aliqua alia de filiabus suis, ad similem sibi provisionem faciendam. Uxori ejusdem Stephani XX marcas.

Domui Scholarium de Merton mille marcas, ad possessiones perpetuas inde emendas; et non ad aliud ponantur, nisi forte ex magna necessitate aliquid inde oporteat ponere pro defensione jurium suorum. [solutæ.]

Hospitali sancti Johannis de Basingstoke quadringentas et quinquaginta marcas, ad possessiones perpetuas sibi emendas, que non ad aliud ponantur, et provideatur quod in tuto loco reserventur. Ita quod si possessiones hujusmodi infra IV annos a tempore mei decessus venales non inveniantur, ubi dicta pecunia posset ad opus dicti hospitalis applicari, tunc habeat Domus Scholarium de Merton pecuniam predictam, ita quod singulis annis in perpetuum reddant dicto hospitali XX libras, vel XXV marcas ad minus, cum securitate sufficienti inde providenda; vel si Custos et Scholares Domus predictæ hoc onus in se recipere noluerint, tunc per aliquam domum religiosam hoc fiat, ubi securitati ejusdem hospitalis melius videbitur expediri. Item centum marcas ad providendum unum capellanum perpetuo celebraturum in hospitali predicto, vel in ecclesia sancti Michaelis de Basingstoke, si in ea sepultum fuerit corpus meum. [solutæ.]

Terminus meus quem habui apud Wythenbery vendatur, et detur pecunia inde proveniens in subsidium terre sancte, alicui bono viro in dicta terra pro me et seipso proficiscenti.

Domino regi unam cuppam argenteam cum opertorio, scilicet meliorem, et unum par pelvium argent.

Domino Antonio Beck unum de annulis meis, sc. meliorem, et domos meas apud Sarum, si has habere voluerit, alioquin habeat eas magister Will. de Ewell, nepos meus, et eas sustentari faciat; ita tamen quod predictus dominus Antonius earum usum habeat quando et quatenus sibi placuerit.

Domino Johanni de Kirkeby unum de annulis meis, et ciphum unum de mazer, et unum ciphum argenteum cum pede.

Magistro Rogero de Seyton unum annulum, et scultellam meam argenteam ad eleemosinam.

Domino Johanni de Kobham unum annulum. Waltero de Odyam unum ciphum argenteum sine pede, et II scultellas argenteas de forma minori. Magistro Will<sup>o</sup> de Ewell Bibliam meam, que post tempus suum remaneat scholaribus meis supradictis. [prec. iiii marc.] Item eidem sex Scultellas argenteas, et magnam cuppam meam de mazer que est apud Seggefild, et respondeatur ei de fructibus ecclesie de Seggefild, quolibet anno a tempore consecrationis mee, de centum librarum; ita quod cedat in supplementum testamenti mei de sua permissione et gratia, prout dominus rex ipsum gratum esse voluit et fidelem. Simili modo fiat Johanni de la Clyve, nepoti meo, annis singulis, a tempore dictæ consecrationis; ut respondeatur ei per annum de L lib. et residuum cedat in supplementum testamenti mei. Item eidem Johanni quatuor scultellas argenteas, et I ciphum argenteum sine pede.

Magistro



Magistro Reymundo unam cuppam argenteam cum coopertorio. Rad<sup>o</sup> de Ryplingham XXX marcas.  
Abbati de Osney restituatur missale.

Sciendum autem, quod si, hiis, de quibus superius mentio habita est, sive de familia mea, sive de genere meo, vel aliis quibuscunque, aliter per me in vita mea provideatur, vel portiones sue, in hoc testamento assignate, in toto solute fuerint, aut in parte, totum illud sibi cedat in solutum, ita quod illud iterum repetere non possint. Quod si bona mea, et debita mea, que mihi debentur, et que omnia ad hujus testamenti complementum cedere volo, ad hoc non sufficiant; propter quod de portionibus prenotatis oporteat aliquid defalcari; volo nihilominus, quod fororibus meis, filiis et filiabus fororum meorum, Will<sup>o</sup> Dudekyn, Joh. Coco, Waltero Coco, et Domui scholarium meorum nihil subtrahatur; sed habeant integras portiones sibi assignatas, nisi forte aliter sibi per me fuerit provisum, vel aliquid inde percipiant in vita mea, prout supra dictum est.

Hujus autem Testamenti mei executores constituo magistrum Willm. de Ewell, Joh. de Merston capellanum, fratrem Thomam de Woldeham, Johannem de Catteloyne, Radulphum de Riplingham, et Willielmum Dodekin. Quod si non omnes executioni dicti testamenti intendere velint, aut possint, idem magister Willielmus, cum duobus vel uno ipsorum, plenam habeat hec omnia exequendi potestatem, et si quid residuum fuerit ulterius de bonis meis quam que superius sunt assignata, volo et potestatem de predictis mro Will<sup>o</sup>, Joh. de Merston, et Joh. de Catteloyne. ut ipsi, vel duo ipsorum, si de tertio humanitus contigerit, aut interesse noluerit, aut non possit, eandem inde habeant ordinandi potestatem, ad salutem anime mee, quam ego ipse, si superstes essem, haberem, vel possem habere. || Auxiliatores autem, et consiliatores, eis assigno, dominum Bathon. et Wellen. episcopum, dominum Joh. de Kirkeby, et specialiter magistrum Andream de Kirkenni, ut, ex speciali confidentia, ad eos, cum opus fuerit, valeant habere regressum. || Inhibeo autem, in virtute Dei, ne aliqua ad hoc spectantia alicui viventi [mutuo] concedantur; sed, sub quanta fieri poterit maturitate, cuncta, prout rei qualitas exposcit, provideantur et compleantur. || Ad securitatem hujus rei pleniorum, sigilla venerabilium patrum, domini R. archiepiscopi, et domini R. Baton. et Wellen. episcopi, atque discreti viri magistri Rogeri de Nogeris, domini pape nuncii, una cum sigillo meo, presentibus apponi procuravi.

Testes autem hujus rei sunt, magister Andr. de Kirkenni, dominus Ranulphus vicarius de Grenewich, Willus Dodekyn, Rog. Taylard, Rob. fil. Nigelli, Andr. de Hotoft, Joh. de Kancia, et alii. Actum apud Merton, XX nono die Martii, Anno Domini M. CC. LXX quinto.

Ego magister G. de sancto Leofardo, in signum probationis hujus testamenti, propria manu hic subscribo.

Summa totius testamenti in denar. MMXIII. li. XVII. s.

[Et in rebus appreciatis DCCXI. li. VIII. s. VI. d.]

[Et sic summa omnium legat. MM. DCC. XXVI. li. V. s. VI. d.]

In nomine, &c. Ego Walterus de Merton, Roffensis episcopus, adjiciens testamento meo quod alias feci, volo et concedo, quod caruce mee, que sunt in maneriis meis de Cobbehambir. et Berehes, per me ecclesie mee Roff. et successoribus meis in eadem quesitis, in eisdem maneriis remaneant dicte ecclesie Roffensi, et successoribus meis. Item volo quod frater Tho. de Woldeham, capellanus meus, et dominus R. perpetuus vicarius de Grenewich, sint executores mei, una cum aliis executoribus nominatis in testamento meo. Item volo, quod si aliquis, cui, sub conditione vel modo, aliquid legavi in testamento meo, jam mortuus fuerit, vel, amodo ante mortem meam, moriatur; qui, si viverit post mortem meam, petere possit legatum in testamento meo, non obstante dicta conditione vel modo,



modo, quod amici propinquiore dicti defuncti illud legatum habeant, sicut et defunctus, si viverit. Item volo, quod omnia que remanent de bonis meis, que non sunt certis personis vel locis in testamento meo legata, habeant scholares mei de Domo Scholarium de Merton. Premissa adjeci predicto testamento meo, die Martis prox. ante festum apostolorum Simonis et Jude, anno Domini MCCLXX septimo.

§. Summa tot. Invent. tam in Cant. provincia quam in Ebor. de bonis defuncti, et de quibus executores debent respondere

V. M. C. X. li. XIII. s. X. d. ob. probat.

de quibus in exp. lib. pro exp. funeris [190. 3. 10. ob. q.] debitis creditoribus [810. 2. 6. ob.] exp. necessariis [398. 19. 10.] et legatis [2726. 5. 6.] prout continentur in rotulis compoti

MMMM. C. XXXV. li. XI. s. IX. d. q.

Et sic debent respondere executores de

D. CCCC. LXXV. li. II. s. I. d. q. de quibus executores debent respondere.

§. Omnia autem compot. predictum contingentia expedita sunt, in presentia magistri Petri de Abindon, dati auditoris, in capella cancellar. sti Pauli Lond. in festo sti Johannis ante Portam Latinam, Anno Domini M°. CC°. LXXX°. secundo.

Reg. Peckham fol. 103, a. Mertone Walter de, Episcopus Roffensis.

Memorandum, quod die Mercurii prox. post festum sti Johannis ante portam Latinam, cum continuatione et prorogatione dierum, a die Veneris dict. fest. prox. decedente. A. D. M°. CC°. LXXXII°. in capella R. cancellarii f. Pauli London. comparuerunt personaliter Johannes de Merton, Johannes de Cateloyne, Ranulphus perpetuus vicar. de Grenewyz, Rad. de Repplingham clericus, et Will. Dudekin laicus, executores testamenti bone memorie Walteri de Mertone, quondam Roffen. episcopi, et compotum administrationis sue dicti testamenti, scilicet de inventis omnibus et singulis in bonis testatoris predicti, tam in provincia Cant. quam Ebor. necnon in funeris expensis, debitis creditoribus, sumptibus necessariis circa executionem dicti testamenti factis, legatis et fidei commissis in eodem testamento relictis, presente personaliter mag. Petro de Abindon, custode Domus Scholarium de Merton Oxonie, plenarie reddiderunt.

The executors account with the college, though completely made up to this time of accounting, seems not to have been so entirely completed, but that there was more than then accounted for yet standing out and due to them. In evidence of which, there is one inventory in particular; for more than forty marks of the founder's effects, *die inventionis sancte crucis, anno Domini M°. CC°. LXXX°. secundo, factum*; and, as so late made, not brought, with the earlier inventories of 1277, &c. into the above account, but separately and subsequently transmitted to the college. And there is in Madox's History of the Exchequer ch. 2. (x), Recognitio Rogeri Bigot comitis Norfolcie et mariscalli Anglie: Idem venit coram thesaurario et baronibus, et recognovit se teneri magistro Willielmo de Ewell et coexecutoribus suis testamenti W. de Merton, quondam Roffensis episcopi, in LX libris.----*Mich. Recognit. 17. E. 1. finiente, Rot.-----a.-----* The college therefore, on the whole, seem to have had a greater residue than the above sum of D. CCCC. LXXV. li. II. s. I. d. q.





IT was intended, that this brief, and selection, from the most material of the Merton-evidences, for shewing the rise, and progression, and perfection, of the Merton-foundation, should have closed with the very good and beneficial will of the founder: but left after what precedes of the advowsons of churches obtained for the college, in order to their being, as they thereupon actually were, appropriated to it, on its foundation; something more may seem to be wanting of the endowments for their vicars and ministers: the following list of such provisions as were made for them, not in the order of their being made, but in that of the advowsons being granted to the college, is here still further added.

I. Maldon. *Ordinatio vicarie ecclesie de Maudon, et capelle de Cheffendon*, in com. Surrie, et diocef. Winton. [dupl.] facta per Nicholaum, [de Ely] Dei gratia Wynton. episcopum, et dat. apud Eshere, in crastino conversionis Sti Pauli apostoli, anno Domini M<sup>o</sup> CC<sup>o</sup>. septuagesimo nono. [from the originals, under seal.] Of the donation and approbation, &c. see before in pp. 63, 64, 65; and there likewise of the alienation and recovery of the Maldon estate and advowson; and of the college-lease to the vicar, as since granted.

II. Farley. *Conventio inter custodem et scolares de Merton, et Bartholomeum vicarium de Farnleye*, in com. Surrie et diocef. Winton. dat. Oxon. in crastino Sti Hugonis, Lincoln. episcopi, anno domini M<sup>o</sup>. CC<sup>o</sup>. octogesimo quinto. [from the original, under seal.] Of this church, as together given and appropriated to the college with that of Maldon, in 1264, and of this, as since become disappropriate, see before in pp. 63, 64.

III. S. Joh. Bapt. *Carta domini Ricardi, Lincoln. episcopi, et sui capituli, de appropriatione ecclesiarum S. Johannis baptiste et S. Petri in Oriente Oxon. diocef. Lincoln.* dat. Spaldewik. Idus Sept. anno Domini M<sup>o</sup>. CC<sup>o</sup>. sexagesimo sexto. The more than ordinary provision for supply of this church of St. John depending on the more than ordinary alteration made in it by its appropriation, as well for, as to, the college; the appropriation, as made under the college-constitution, and before reported in pp. 66, 67, is to be looked back to: And there, in point of mode, it will be seen, that the appropriation of this church, together with that of St. Peter, was by duplicate instruments of the then bishop of Lincoln, (Richard de Gravesend) with assent of his chapter, in 1266. But besides these duplicates, or two exemplars of this appropriation by the said diocesan, with assent of W. his dean, and chapter, and therefore each sealed by both bishop and chapter; there are two of appropriation by the bishop singly, and which in other sort, and as in other of these instances, might have had the chapter's concurrence and confirmation, on inspeximus and recital, &c. under their seal, subsequently and separately. In point of fact, however, this church of St. John the Baptist, in consequence of this appropriation of it, and as in pp. 66, 67, becoming the college-church, and the college-ministers or chaplains, its churches ministers or chaplains; and these, by the *alia sustentatione ministrorum altaris, in ipsa domo commorantium*, as in p. 67, being otherwise provided for than as vicars in other churches: the tithes and oblations, or *reditus ecclesie*, as due to it from every house or hall in the parish, have, from the time of the church's belonging to the college, therewith belonged to the college likewise, as to be seen in the rentals and accounts of the college. The chaplains, however, besides the benefits and appointments they have from the college, as its chaplains, have their dues for marrying, and burying, &c. as personally, and particularly, and accustomedly, belonging to them.

IV. S. Pet. ad Orient. *Compositio vicarie S. Petri in Oriente Oxon. diocef. Lincoln.* dat. apud parcum Stowe, Non. Decembris, anno Domini M<sup>o</sup>. CC<sup>o</sup>. nonagesimo quarto. [from the original, under seal]. This was by Oliver Sutton, who, [at Netelham, iiii. Non. Augusti,] in 1281, soon after his becoming bishop of Lincoln, had recognised and attested, by an exemplification under his seal, the afore said appropriation of this church, (together with that of St. John,) as made to the



the college, *salva rationabili vicaria*, by his immediate predecessor, Richard de Gravesend, with consent of his chapter, in 1166. And now, on the church's becoming vacant in 1294, after the college were possessed of it, in virtue of his mandate of induction, [dat. apud Lydyngton, iiii°. Non. Novembr. A. D. MCCXCIV.] he, in the same year, on inspection of the registers of his predecessors, makes the here noticed composition agreeably to what the former vicars in this church, as presented to the bishops by the late rectors, to whom it had been appropriated, were before entitled. Vide Registr. in cista econom. pp. 23, 24, 31. et Registr. Coll. Mert. fol. 20 b. and of the royal donation and consequent appropriation as before in this paper, pp. 66, 67. And to this may be added, that rectory and vicarage as this church heretofore may have been, it is now supplied as a curacy, by a curate from the college, and of the college-appointment; and as, distinctly from this church and from one another, each of its more or less dependencies, the churches of Holywell and Wolvercot, is likewise now supplied.

V. Wulford. *Ordinatio vicarie ecclesie de Wolwarde*, in com. Warvicens. et dioeces. Wigornien. facta per Thomam Cobham, Wigorn. Episcopum, anno Domini M°. CCC°. vicesimo secundo: [from the original, under seal] and thus concluded, "si qua autem substantialia, in presenti ordinatione nostra, forsitan sint omissa, potestatem legitimam ea corrigendi, mutandi, addendi, et minuendi, cum deliberatione majori, et obtulerit se facultas, nobis et successoribus nostris, tenore presentium reservantes. dat. apud Hertlebur. iiii. Idus Decembris, anno Domini," ut supra. The appropriation of the church of Wulford, (*cum capellis, &c.*) in the county of Warwick, and diocese of Worcester, and before noticed in p. 67. was by grant to the college [Et est duplicata] in 1268, of Godfrey Giffard, the then bishop, with confirmation, &c. on inspeximus [dupl.] by Ric. his prior, and chapter; and was followed by the endowment of a vicarage of 10 l. per annum, by the bishop in the same year. But the rectory and vicarage being united in 1279; a new appropriation of it (*with its chapels, &c. as before,*) under licence of the king, 5 Edwardi fil. Edwardi, for appropriating it una cum capella de Burmington, eidem ecclesie annexa, particularized therein though not in the appropriations, was obtained of Thomas Cobham, the diocesan, (frater Wlstanus, his prior, and chapter, by inspeximus, [dupl.] ratifying and confirming it) with induction of the college, under his mandate, and this endowment of a vicarage by him, all in the year 1322. See before in pp. 67, 68. In, and from, the year 1628, one yard of glebe land, has, by the occasionally repeated orders of the college, been leased to the vicars: and, by order of the college in 1768, two hundred pounds were paid to the trustees of queen Ann's bounty for one augmentation of this vicarage.

VI. Elham. *Carta domini archiepiscopi, de ecclesia de Eleham*, in com. et dioeces. Cant. dat. apud Lameth. kl. Maii anno Domini M°. CC°. LX°. octavo. [et est dupl.] This is archbishop Boniface's grant of appropriation of it to the college, "*salva rationabili vicaria triginta marcarum, per nos ordinanda in eadem.*" Of which, and of the foregoing grant of the advowson by prince Edward, referred to therein as inducing it; and of the *realis compositio* \* per Will. Warham, Cant. archiepiscopum, facta 25° Junii, 1532; and of the college leases of the vicarial tithes, as copied in their ledgers, see before in pp. 68, 69, 70. There is a distinct confirmation of this appropriation, obtained, about a month after it, of A. the prior, and chapter, [et est dupl.] under such fine impressions of the third common seal of this church of Cant. as the engraving of it, in *Vetusta Monumenta*, vol. ii. plate XIX. might have been rendered more perfect by. It has on its reverse, as have the impressions of the seals, in the college-treasury, of these three archbishops in succession, viz. St. Edmund, Boniface, and Kilwarby, a representation of the assassination of Thomas a Becket, with various monkish verses in address to him as their saint, and martyr. \* By this composition, (as well as before it) the vicar, in addition to his thirty marks per annum, had other advantages and accommodations of house, &c. as there specified, and properly, and personally, appertaining to a resident and officiating minister: but still he had no part of the old vicarial tithes, &c. as had by the *old vicars*, or vicars under the *old* appropriation, and by the college called the vicarage; and by them demised to the *new vicars*,



as their vicars or curates of their vicarage so demised under this last appropriation. vide Catalog. MSS. Anglie, &c. Tom. ii. p. 126. ubi inter codices MSS. Bibliothecæ Yelvertonianæ occurrit-----*compositio realis*, &c. ut supra.

VII. Ponteland. *Ordinatio vicarie de Ponteland*, in com. Northumbrie, et diocef. Dunelm. facta per Antonium Beck, episcopum Dunelm. et dat. apud castrum Bernardi, XXI. die mensis Augusti, anno Domini Millesimo CCC<sup>o</sup>. tertio. [from the original, under a seal of the bishop seated.] The advowson of this church, with the prebends thereof, \* was no sooner given, and the church (with its rectory, and portions, commonly called prebends, united and consolidated, &c.) appropriated to the college, in 1268, then disputes arose, which prevented the endowment of the vicarage by the said bishop, till 1303, as see before in p. 80. Of the appropriation by bishop Stichel, in 1268, there is one pair of duplicates, of somewhat earlier date, and less perfect form, by the bishop alone, and sealed only by him; and another pair, of other date, and more perfect form, by him alone likewise; and another pair of the same date and form as the last, by him, with the concurrence and seal of Hugh the prior, and convent, added; and then, lastly, duplicates of another pair, of separate confirmation of his sole and better act, as above, by the said prior and convent, by inspeximus and recital, under the common seal of their church: All of these being early dated in the year 1268.

\* This church of Ponteland, before the appropriation of it, was served by three portionists, till one of them was made rector, about the year 1240; the other two being made or continued prebendaries of certain parts, portions, or districts of this very large parish. And in this state of this benefice, the founder made it part of his added endowment to his college, as by his second general charter of 1270, in these words. "una cum advoc. eccle. de Puntelond, Dunelm: dioc. et portionum suarum." and in this state it was thus rated in pope Nicholas's valor:

Ecclesia de PountEland [rectoria de, MS. Tanner]-----XXX. l. ----- XII. d.

Prebenda domini Karoli de Bellomonte in eadem. XXII. l. -----

Prebenda-----Philippi de Wyleby in eadem. XX. l. X. s. -----

from which, bishop Tanner has given Ponteland a place in his Notitia Monastica, p. 396. saying, "This church seems to have been collegiate, for in the Lincoln taxation, made about A. D. 1291, "it is thus put down": viz. as above. But the truth of the matter, as clear from the college evidences, is, as here reported-----the rector and prebendaries, having the care and profit of the church as above, amongst them, till after appropriation and endowment of the vicarage in 1303; at which time the college and their vicar succeeded to the whole, and as one whole, in their stead.

VIII. Gamlingay. *Ordinatio vicarie de Gamelingeye*, in com. Cantabrigie, et diocef. Eliens. facta per Willielmum de Luda, episcopum Eliensem, et dat. apud Dodington, decimo kalend. Augusti, anno Domini M<sup>o</sup>. CC<sup>o</sup>. nonagesimo secundo. [From the original, under seal]. The lordship of Gamlingay was in time past divided into two moieties or manors, each with a moiety of the church belonging to it: and as each manor had a lord, so each moiety of the church had a rector of his nominating and presenting. But then, one only of these manors and moieties coming to the college by its founder, the other, as well moiety of the church, as manor, was subsequently acquired by it. This endowment therefore, and the appropriation it proceeded on, was only of the first of these moieties. The bishop, however, upon what has succeeded, has long collated to the entire vicarage, as one benefice. The appropriation as above was by Hugh de Balsam the diocesan, in 1268; and made by him to this college of scholars, as then some years become a college, capacitated by incorporation: and he saw it so complete and accomplished, and entirely Oxonian, at, and long before, the time of his scholar-establishments in Cambridge, in 1280, and 1284, as to make him desire, that, as far as their inferiority would admit of it, they might be regulated as this was. To his grant of the appropriation,



priation, as above, (one only of the duplicates now being found) is a very perfect impression of his seal: and to the confirmation on inspeximus, by Robert, the prior, and convent of the church of Ely, a still fairer one of the very fine seal of their church, with this inscription, in small capital letters, round the edge of it. PETRVS : ET : ELDREDA : MOLLIS : SUB : TEGMINE : CERE : ELY : S : ECRETA : CELARE : SIMVL : STATVERE : and which, as not in the print of it in the *Vetusta Monumenta*, vol. 1. N°. 5, is here added.

IX. Dodington. *Ordinatio, sive compositio, pro vicaria de Dodinton*, in com. Huntingdon. et diocesi. Lincoln. facta per Ricardum de Gravesend, episcopum Lincolnensem, et dat. apud Lidinton iiii. Non. Februarii, pontificatus nostri anno XXI. [circ. 1278.] And of this endowment there is an exemplification from his register, under the seal of Henry Burwesh, bishop of Lincoln. dat. apud Wodestoke, XVII kl. Junii, anno Domini millesimo. CCC°. tricesimo. The church of Dodington, in the county of Huntingdon, and diocese of Lincoln, together with that of Horfepath, in the county of Oxford, and same diocese of Lincoln, was appropriated to the college in 1268, by Richard de Gravesend, the then bishop of Lincoln, and, as by consent, &c. of his chapter, the deeds of appropriation have some of them as well the seal of the chapter, as of the bishop. And of this act of the bishop and chapter, dat. apud Stowe, V. Idus Martii, anno gratie millesimo ducentesimo sexagesimo octavo, there is an attestation on inspeximus, under the seal of the next succeeding bishop, Oliver Sutton, dat. apud Netelham, quarto Non. Augusti, anno millesimo, ducentesimo, octogesimo primo.

X. Horfepath. Of the church of Horfepath, in the county of Oxford, and diocese of Lincoln, though given, as before noticed, and, as here, with Dodington, appropriated, no endowment has been met with; and from the not finding any thing thereof, or any presentation of any vicar by the college, they seem to have been very early dispossessed of the whole benefit of these grants. But to preserve the memory of the good intent of the donation, the entire grant of the advowson, by such a friend of the founder and of his college, as this king of the Romans, shall here follow. Ricardus, Dei gratia, Romanorum rex semper augustus, Omnibus Christi fidelibus, ad quos presens scriptum pervenerit, salutem, et omne bonum. Cum dilectus nobis, W. de Merton, illustris domini, H. regis Anglie, fratris nostri karissimi, quondam cancellarius, domum, que Sclarium de Merton, nuncupatur, ad perpetuam sustentationem scolarium in scolis degentium, stabiliendam duxerit et fundandam: Nos fructum attendentes quem ex hoc, in cultu Christiano, speramus et credimus profuturum, ecclesiam de Horfepath, juxta Oxoniam, dicte Domui et scolariis predictis, intuitu Dei, quantum ad patronum pertinet, damus et concedimus eorum usibus propriis, de nostro patronatu, perpetuo possidendam. Quare volumus et concedimus, pro nobis et heredibus nostris, quantum ad patronum pertinet, ut dicti scolares, ecclesiam predictam suis propriis usibus, de nostro patronatu, ad suam sustentationem habeant et possideant in perpetuum. In cujus rei testimonium, huic scripto sigillum nostrum duximus apponendum. Hiis testibus, venerabil. patre R. dei gra. Covent. et Lichefeld. episcopo, nepote nostro. R. de Ethall, archidiacono Wygorn. Magistro Ada de Belsted, clerico nostro, et aliis. dat. apud Isteluworth. XXVI. die Julii, regni nostri anno duodecimo. [52 Hen. III. 1268.] sealed, as his other grants, with his great seal impressed on red wax.

XI. Stratton. *Appropriatio facta domui scolarium de Merton, per [Walterum de la Wile], episcopum, et capitulum, Sarr. super ecclesiam de Stratton.* in com. Wilt. et Dioc. Sarr. dat. in capitulo nostro Sarr. sexto kl. Octobris, anno gratie millesimo, ducentesimo, septuagesimo. [et est duplicata, and each sealed by both. An old copy on parchment is endorsed *Copia appropriationis ecclesie de Stratton Ste Margarete, cum pensione vicarie.*] And soon after, in the same year, it was followed by *Carta confirmationis domini regis super advocacione ecclesie de Stratton.* This confirmation, under the king's seal, is dat. per manum nostram, apud Winton. 20. Dec. 55. Henr. III. [1270]. And as the honoured founder was the rector of this church, at the time he procured the advowson, appropriation, and



and confirmation for his college; to add to the favour, he then and thereupon immediately resigned, and divested himself of his own more immediate concern in it: Possession of this church, as of each of the others not vacant at the time of its appropriation, being to be had by the body it was appropriated to, *quandocumque eam vacare contigerit*, and *quamprimum vacaverit*. And of this appropriation it is observable, that as it took place after that of Elham, so it is more like it than any that preceded it, not only in its being made with the saving of a vicarage of the certain stated, though lesser value, of ten marks per ann. instead, as in the usual form, of only a competent one by the diocesan to be ordained; but in its being likewise made with similar reservation to the diocesans for their nominating the vicars. And to the college, as thus having only the presentation of the vicars, on other than their own nomination, no other endowment, than in the appropriation, appears to have been transmitted. Of 200 l. laid out in land by Sir W. Hedges, for benefiting the vicars, see bishop Kennet's Case of Improvements, p. 324.

XII. Emildon. *Charta Ludovici*, [Beaumont] *episcopi Dunelm. de appropriatione rectorie de Emildon*, [in com. Northumbrie, et Dioc. Dunelm.] *et constitutione vicarie ibidem*. dat. apud Brantyngham, nono die Martii, anno Domini M<sup>o</sup>. CCC<sup>o</sup>. tricesimo, primo; 6 Edw. III. [from the original, under seal.] It proceeded on a commission from pope John XXII. as therein recited, for authorizing the said appropriation and endowment, hitherto deferred on accounts as to be seen in p. 80 preceding. They both were in consequence of the grant of the advowson of this church, with its chapels, and there, and before, mentioned to have been made to the college by Edmund, the younger son of king Henry III. who was the first earl of Lancaster. His grant of advowson was in form as follows:-----*Edmundus illustris domini H. regis Anglie filius: Omnibus prefens scriptum visuris vel audituris, salutem. Sciatis nos, intuitu Dei, et pro salute anime nostre, et anime dicti Domini regis, patris nostri, et omnium antecessorum et heredum nostrorum, dedisse, concessisse, et hac carta nostra confirmasse, Deo, et Domui Scolariū de Merton, et scolaribus et fratribus ejusdem domus, advocacionem ecclesie de Emildon, et capell. &c. in comitatu Northumbr. habend. et tenend. dictis scolaribus et fratribus, bene et in pace, in liberam et puram eleemosynam, &c. and with full allowance of their being appropriated to them, or, propriis usibus eorundem scolarium et fratrum concedi, ad sustentationem suam et ampliacionem numeri eorum, &c. sealed with his seal, as in Sandford, p. 102. having the bodies of three lions centering in one head. Hiis testibus, (nine by name), et aliis. dat. apud Wyndesf. vicesimo quarto die februarii, anno regni domini Edwardi regis germani nostri tertio. [1274-5.] By the above endowment, the vicar was to provide for the supply of the two chapels of Rok and Rennington, as belonging to the vicarage: but, by the assiduity and perseverance of Mr. archdeacon Sharp, an. 1766, and 1768, and concurrence of the college with his good and beneficial proposals, each of them was augmented and endowed with 1000 l. and both made distinct cures, apart from the church and one another, but both under one and the same curate or chaplain, to be nominated by the vicar for the time being, at every vacancy: the vicar hereupon giving up the chapel yards, the surplice fees of the said districts, and some cottages and ground for the site of a house for the chaplain to be forthwith by him builded thereupon. And of all which there is much good and creditable information within the college.*

☞ The following note of the origin of the chapel of Burmynton is to be referred to what occurs of the said chapel in p. 88. Mem. quod, 11<sup>o</sup>. die februarii, a<sup>o</sup>. r. r. Edwardi quarto, in quadam inquisitione facta coram escheator. dni regis apud Burmynton, compertum est per jur. super sacramentum, quod capella de Burmynton est, et fuit, annexa ecclesie parochiali de Wulforde, Wygorn. dioc. a tempore cujus non extat memoria. Et quod dicta capella fuit constructa per quendam dominum ville de Burmynton, cujus nomen ignoratur. Qui quidem dominus adivit curiam Romanam, ad impetrandum constructionem capelle predictae; ad evitandum periculum quod accidebat in delatione corporum mortuorum funerandorum ultra quandam aquam currentem inter Wulforde et Burmynton: salvo semper jure matricis ecclesie de Wulforde. Et ante constructionem capelle predictae, villa de Burmynton fuit de parochia de Wulforde, et adhuc est. Reg. vet. coll. Mert. fol. 10. a.



AND to this it may be further added, that joined as this chapel of Burmington was, with the mother-church of Wulford, in the appropriation; it was not so joined with it in the endowment of the vicarage, as to be now in the vicarage, and under the vicar: but, as under the appropriation, it still remains to the college, with the whole tithing of its district, and whole charge of its cure, and other charges. And in consequence of this, the college-lease of the tithing of Burmington is distinct and diverse from its lease of the rectory of Wulford; the first being of the whole and undivided profits, and with a devolution of the cure, and all the charges: whereas the Wulford lease is of the rectory only, as distinguished by the endowment from the vicarage, and discharged thereby from its former connexion with the cure, and every thing vicarial. And from this, the thus and so long derived distinction and division of these tithes and tithings, and the difference of cure and no cure, as in the distinct and different leases of the whole profits of the chapel of Burmington, and of the great and rectorial ones only of the church of Wulford, there in time ensued a difference; a difference from 1583 to this time continued, in the way of disposing of these leases, and in the persons they were disposed of to. For the college, then under the reformation, very wisely and kindly thought fit, no longer to dispose of that lease, to which appertained the providing for the cure of the chapel of Burmington, as the other, and to any accidental farmer: but granted it upon the then rent, and without any fine, to a member of its own collegiate body, *in terminum vite sue naturalis*; and (not to make too much of an election of it) to that member in particular, who from his place and situation, and utility, in the society, might seem to be the most entitled to such favour and encouragement, their rightly and fairly resident senior fellow, though at that time only the third senior on the college list. And from that time to this, in the course of more than two hundred years, it has been fifteen times successively disposed of, and without variation needing here to be remarked on: and therefore it shall only be observed, that so far back as the year 1676, when this mode of disposal had been but of about ninety years duration, and therefore not near so many times as now repeated, the following was the opinion of the patron, archbishop Sheldon, on a then proposed alteration of it. "I thought it first necessary to let you understand, that I incline to the old and accustomed method of your college, in all proceedings, unless there be very weighty motives to the contrary; and shall be very unwilling to give encouragement to new projects and devices, especially to the prejudice of any person's legal right. There was some inducement for the first grant of this lease to the senior fellow at the beginning, and for the continuance of it since: it is fit there should be as good, if not better, arguments to take it away." Letter to the warden, (Sir Thomas Clayton) not altogether so patron-like, and liberally minded.

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HERE, then, we close these notes of evidences of the full foundation and establishment of this college, together with a summary of it as proved thereby, and just sufficient to introduce and bring forward these vouchers, to be seen in the more proper order and intent of them, than they have for a long time past been viewed in. And as in them we think it may be seen, against all that can be opposed to them, that *this HOUSE of scholars of Merton is, in its form and formation, and whole shew of its foundation and confirmation, &c. the earliest of the present colleges*; it only remains to be looked into, how, as the first, it shews so much more of establishment, than some, which, though pretending to be before it, were really and *evidently* founded after it.

SUCH, then, as has preceded, being the fuller evidence of chartered and other authority, as well for an earlier mode, as date of foundation, producible for this than for any other college; it might seem somewhat admirable, to see a first foundation, as fully authorized and established, as any that had thereupon succeeded; were it not at the same time seen, to be by a founder more than ordinarily fitted to be the first and the leading one.



AS beheld in his foundation, and without going out of it, he is beheld, in a most eminent degree, what he willed the Head of this his House at all time to be, *vir in spiritualibus et temporalibus discretus et exercitatus*.

AND on looking further, it may perhaps still further appear, that his whole state of life was such, as more than ordinarily disposed him, both to see, and to obtain, whatever might be wanting for the full and lasting establishment of such an incorporation: God's blessing upon it, being the first thing sought for by him, and after what has before occurred, we must now most devoutly say, obtained by him for it.

IN respect, therefore, to what enabled him to be so good and provident a founder:-----With a very great capacity, and excellent disposition, he came into public life, and became very useful, and of signal service to his country, in the very difficult, but much informing time, intermediate to the granting and establishing the great charters: and in which the parliament, and courts of law, were there-with, and thereupon, bringing into the present more right and free and favourable mode of them.

AND in this intermediate state of the *aula regia*, as before the entire determination of the office of justiciary in it, (Westminster-hall, as part of the king's palace at Westminster, being the then and there place of it,) he became eminent in the chancery department of it; first as king's clerk, (and ranking perhaps as high as king's counsel at present) then as prothonotary, (and so of still higher rank and consequence) and after having been three times chancellor, on occasion, he was in the most plenary manner made such, in the 45th year of king Henry III. 1261. The records of which time, besides otherwise exhibiting him as chancellor, do likewise shew him in that high office as still having high concern with the exchequer: and so, as chancellor, applied to, and engaged in, matters of revenue, as well singly by himself, as with the justiciary only, and with the justiciary and treasurer jointly: and they further shew him to have been of great account in matters of state, and public concern in general, as well foreign as domestick: Besides the records variously respecting him in the printed collections of Prynn and Rymer; there being in the tower of London, amongst other unprinted ones, still more variously respecting him, two of the above revenue sort, viz. *Claus. 46. Henr. III. m. 4. in dorso. et ibidem, m. 3. in dorso.*

WHILE he was in his subordinate situation, it is, not without authority, said of him, that he was the framer of writs still in use: there being in an old Registrum Brevium, in the Cotton library; one writ in particular pointed at, as, "tempore regis Henrici filii regis Johannis, per discretum virum suum dominum Walterum de Merton, clericum et prothonotarium cancellarie domini regis, et postmodum cancellarium, primo adinventum." *fol. 199.* And of another in *fol. 200*, it is said, "fuit hoc breve inventum, ut creditur, per discretum virum dominum Walterum de Merton."

AND with what superior goodness he demeaned himself in his superior situation of chancellor, and king's counsellor, in this most trying time of civil dissention, there are other records, than those of favour and respect for him, from the opposite party, even during their opposition and ascendancy, which might serve to demonstrate.

BUT that which renders these, and all others unnecessary, is, that most public and complete one, of the united voice of the re-united nation, calling him out, at an advanced time of life, on that great occasion of the death of king Henry III. when his son and successor, king Edward I. was absent in Palestine, to be again chancellor, and with the chief administration of affairs committed to him, till the king's



king's return, a whole year and three quarters afterwards \*: And in completion of which honour, it must not be omitted, that he had the letter from the king whilst abroad, as in p. 53. to thank and encourage him in his course of proceeding.

FROM the Annals, or antient Chronicle, of the city of London, (a MS in the town-clerk's office at Guildhall,) extended so far beyond the reign of king Henr. III. as to the coming home and coronation of his son and successor, king Edward I; and from Prynne's and Rymer's printed collections, there is much extracted by our latest historians, (particularly by Mr. Carte) and very much in shew of the right choice which the guardians of the realm, and convention of its estates, had made of the chancellor; of the zeal and discretion with which he acted for the peace and tranquillity of the kingdom: and of the honour and dignity with which he proceeded, as the disdainer and restrainer of what was wrong; and of all papal and prelatical insults and encroachments in particular. The instances are to be seen in the authorities as here referred to: and to which it should seem the king's letter, as above referred to, has respect.

HENCE then, and from his charters of foundation, it may be not unduly concluded, that in point of ability of mind from within, and ability of weight with the powerful, the wise, and the good, from without; no one, upon the whole list of founders, was more adapted to be the first and the leading one.

AND it may perhaps be something in the way of curiosity, at least, to look a little to this his course of life, as likewise enabling him for the other, the endowment, part of foundation.

MORE than twenty years before Walter de Merton was made chancellor to king Henry III. we see him possessed of the manors of Maldon and Farleigh, the first fruits of his labours, as he himself intimates in his express desire of a good and right disposal of them. And to see him as well in his subordinate as superior state of acquisition, it may be noted, that the chancellor and clerks under him, as part of the king's household, seem all originally to have been at livery and allowance from the king. In process of time, however, and under the alterations produced by it, there must have been variations in this respect. There was a particular grant to Walter de Merton, on his admission to the office of chancellor in 1261, of 400 marks, at half yearly payments, (not as a pension on his dismissal from it, as in the History and Antiquities of Rochester, 1772, p. 138; but) *ad sustentationem sui, et cancellarie nostre, dum fuerit in officio predicto*: these being the very words of the writ of Liberate on the occasion. And very soon after this, there are notices of like grants, of 500 marks, to two other persons, on their being made chancellors: such grants being expressed in the records to be *for the sustaining of them and their clerks of the chancery*.

BESIDE, however, what was received from the king, in this way, there were perquisites of office: the fees of the great seal, as settled by chart. 1. Joh. n. 8. being

one mark of gold, or ten of silver,	for the chancellor.
one mark of silver	for the vicechancellor.
one mark of silver	for the prothonotary.
five shillings for wax.	

\* In evidence of his being all this time in this office, there is, in his executors accounts, a particular specification of it, as a year, and a half, and a quarter. And there is in Cæsar's chapel, in the tower of London, a small bundle, with a label having inscribed on it, *Brevia de Dedimus Potest: Certior: &c.* in the three last years of Hen. III. and three first of Edw. I. and one at least of these writs is Dat. by him as chancellor so late as 7 Julii, 2 Edw. I.

AND



AND over and above this, it is still to be attended to, that the king's clerks in chancery, with the chancellor, the first or chief of them, as for a great while spiritual persons, and of the king's court, were clerks of his chapels likewise \*, and so further provided for, according to their rank and utility, out of his clerical and church preferments. And for such sort of providing for the lower clerks, it is generally understood to have been, that the chancellor has had, from of old, and still continues to have, the lower rated of the king's benefices to dispose of.

FOR the greater clerks, however, of the court, the king himself more greatly provided: and so provided for Walter de Merton in the cathedrals of London and Salisbury, and in other churches. And of the rank of the greater clerks in the king's court, we may somewhat judge, from M. Westminster's classing them, as he has done, with, and indeed before, the barons of the exchequer, and justices of the bench, in that outrage on them all by the mob in 1263.

FROM these sources, then, and from others of his other known patronage, it was, that Walter de Merton was so enabled, in this respect likewise, to set an example, which, as great in itself, and greatly followed, has been greatly beneficial, to a great number of succeeding generations: he being, in the words of bishop Stillingfleet, vol. iii. p. 873, "the first founder of a college in Oxford, [the place of the case in question] with revenues to support it."-----the first, in short, who, to the great aid and increase of religion, learning and science, set the efficacious and much approved example of uniting scholars into a regular and permanent body, with a constant rule to direct them, and a perpetual fund to support them as students, in an established house of community and yet of retirement, in such place of study, as either of the universities; a design, at the time of it, in such sort new, as still to shew, in the effecting it, that it was so; and that it needed the very designer, the great and good and masterly designer to be, as he was, the effector and perfecter of it.

BUT not to leave him without seeing him at his height-----The king's chancellors in particular, as great clergy, and high in the state, if not found, were generally left high in the church: the chancellors, then, being for the most part alike advanced, as now, to be lords of parliament; yet, as spiritual persons, and without any hereditary and fixed succession, advanced according to their order and estate, to be lords spiritual instead of temporal. And this, on this great person's release from office, on the coming home of king Edward I. whom he had undertaken to serve in the interim of his absence, is seen to have been the case with him.

ON review, therefore, of the preceding and other notices of what brought him to this degree of greatness, it seems inferible, that his life was altogether and very eminently clerical: that the chancellorship was committed to him, "tanquam viro provido et discreto, et clerico magne dignitatis": an ecclesiastick not only approved for his knowledge and experience in the general, but still remembered to us as particularly advancing the great business, and therewith himself, in his particular department; and who, on these accounts, and as so repeatedly and eminently at the head of this his high department, may well be supposed to have had some leading or conducting share in those most excellent and abiding alterations, regulations, and improvements, in the then great courts, and whole course of the law, which under king Edward the first, so much to the credit of that English Justinian, and his wise counsellors and coadjutors, and to the lasting good and satisfaction of the people, so happily succeeded.

\* In a record 6 Edw. II. respecting the chapel royal at Windsor, the chancellor is expressly styled, *Chef de la Chapelle de le Roy*. And in Mag. Rot. 55 Henr. III. the minute expences of the chancery and chapel royal are joined together, as to be seen in Mr. Madox's History of the Exchequer. Ch. II. (y) (z).



HIS fortune and ability, then, seem to have had their great improvement in this way: the *aula regia* being to him, and in general to others like him, the great clerical school of business, exertion, and promotion in those days. And as far as his instance goes, (and others no doubt would intimate the like, if alike looked into) Westminster hall, or practice in the king's courts, was the most proper way of making chancellors then, as well as now; though in a somewhat different order of business and employment, according to the difference in the office; and the clerks and advocates, &c. now and then belonging to it.

AND though, in some respects perhaps, and in some instances, mere personal dignity may seem to have added dignity to the office, more in those times than in the later; yet official eminency, &c. (to judge from the instance before us, &c.) was even then far from being ever and altogether overlooked in it.

IN regard to Oxford, as the place in which he seated his scholars, he seems very well to have known it, and very well to have been known in it: The tradition is, that he sometime studied among the canons regular at Osney, or in Mauger hall, or near it. And both Mr. Twyne and Mr. Wood have extracted from a chronicle, or fragment of a chronicle, of Osney, attributed by both of them to Tho. Wyke, canon there, at the well known time of the death of the founder, in 1277, the following accounts of him.

A°. 1274. Dominus Walterus de Merton consecratus est in episcopum Roffensem: vir magnificus, et secularis sapientie admodum eruditus: hic semper fuit, viris religiosis super omnia in suis negotiis promovendis, promptissimus adjutor et promotor.

Eodem anno, [Anno 1277, it should be] in vigilia apostolorum Symonis et Jude, obiit Walterus de Merton, episcopus Roffensis, de cujus moribus quidam verificator dixit; [himself probably]

Preful Walterus Roffensis pontificali  
Culmine sincerus, virtute micans speciali,  
Qui de Mertona vulgari more vocatus,  
Cujus fama bona, gestus super omnia gratus,  
Fidus in alloquio, justus, sermone modestus,  
Cautus consilio, castus, socialis, honestus.  
Dilexit clerum, gratis tribuens alimentum:  
Pro quo Walterum benedixit turba studentum.  
Oxonie studium per eum quasi plantula vernat,  
Conferat auxilium sibi rex qui cuncta gubernat.

To this Mr. Wood, on the same written paper, has added the following from Bishop Parkhurst's *Ludicra, sive Epigrammata Juvenilia*. Edit. Lond. 1573. p. 144.

*Gualteri Marton, quondam Roffensis Episcopi, et Musæi Martonenfis Fundatoris, Epitaphium.*

Gualterus Marton Roffensis Episcopus olim,  
Pontificumque decus, dormit in hoc tumulo.  
Hic doctos aluit, coluit doctissimus ipse, —

Condidit



Condidit Oxonii nobile Gymnasium.  
Hancce tuis urnam qui contemplaris ocellis,  
Manibus illius cuncta quæta velis.

THE time of his birth is here no nearer concluded of, than from the time of his having acquired, by his own exertions, the manors of Maldon and Farleigh, in 24 of Henry III. and which, it has before been observed, were rated at three knights fees, and for which, in 29 of Henry III. he was excused and exempted, as below in the note. \*

THE time of his death, after a life so publicly and signally beneficial, could not but be more noted. And the unhappy and premature occasion of it made it still more to be remembered, that he fell from his horse in passing over, or fording, some waters in his diocese, and soon after died on the 27th of October, 1277, to the great loss of the kingdom, says one of our historians, regretting it as a chief but very bad event of that year. He was buried, as to be seen ordered in his will, p. 82, and with monuments, &c. as in pp. 55 and 56.

ON the whole, then, of what remains respecting this great person, (and there is much more for particular detail remaining, than is here referred to,) we cannot but attribute it to a more than ordinary degree of goodness and merit in him, that now, so long as between five and six hundred years after him, there is still so much, and all of it so very much, to his honour and advantage, found concerning him.

\* *Claus. Vascon.* 29 Henr. III. m. 9. dorſo. Surr.

Mandatum est vicecomiti Surr. quod districtionem quam fecit Waltero de Merton, de se milite faciendo, penitus remittat. Non obstante aliquo mandato ei prius facto, de quibusdam XX libratas terre vel feodum militis integrum habentibus ad arma capienda distringendis. This old prerogative, of bringing the holder of a knight's fee to compound for this sort of knight-hood, was exercised so late as in 1630; when a knight's fee, notwithstanding the great diminution in the weight of money, and still greater decrease in the value of it, was rated but at forty pounds. The MS. A. Wood, F. 33. contains the names of the Oxfordshire compounders in that year, with his father's name amongst them. And hence it was that persons possessed to that short and scanty amount were in the university of Oxford made to take their degrees in the more expensive mode of grand compounders. The statutes of the university were completed but in 1636, no more than about four years before this then offensive prerogative, on which they proceeded, was abolished by act of parliament. 16. Car. I. c. 20. as it was again finally, with all other military branches of the feudal law, at the restoration.





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II. Of the FOUNDER's kindred; and his attention to them,  
both in, and out of, his college-foundation.

IN any society, where the founder's kindred cannot really be distinguished, there seems, of necessity, to be an end to any preference he may have given to, or any provision he may have made for, them, therein. And, as this has been long the case of Merton-college, (in which, for more than three hundred years, there has not been any actual limitation of election, but to the natives of the dioceses containing any of its endowment at any time acquired, in preference to any persons born in the dioceses which have none of it,) all notice of what occurs in the college charters, &c. of the founder's kindred, has hitherto been purposely avoided. His manifest intention, however, of providing for the fit, and wanting, of his family, by this institution, appearing too material a part of it to be quite overlooked, in any sufficient review of it: it shewing originally, as a family-institution, as well as an academical one, though now quite superseded in the family part: that part is here, at length, a little looked back to, as still standing a part of the institution; and, it is hoped, with such shew of it, in its height, abatement, and superseding, as (against other and more partial disclosures) more to preclude than promote the thought of pretension.

THE right, then, of consanguinity, as established by the founder in this college, was two-fold. 1. *Pro educatione parvulorum de genere fundatoris*. And 2. For the advancement of all, wheresoever qualified, proficients of the founder's family, into his, in these respects, domestical society.

AS the first is materially the same in each of the charters, the statute to which it is the title will sufficiently explain it, as in favour of that part of this very ample family, who from the loss, or non-ability, of friends, &c. might otherwise want the benefit of a good and early education, and therein, some of them, the more beneficial fruits of a still better and later.

AND in regard to the other, it will be but doing justice to the founder's scheme to say, that in the first and earliest, and more private and contracted state of this society, his mode of expression, with the remaining notices we have of his kindred, and those of them in particular at first admitted into the society, being attended to; the preference given them seems intended as a very extensive, and a very inclusive one; and to have been given them under a lively sense of family kindness and advantage, as well as of justice and obligation. His desire was to fix and perpetuate the

Honour



*Honour of his Maker* for ever in his family, as by this *commutation*, a word to be the best understood by these which follow, “*Successionem que meis heredibus secundum consuetudinem regni in dictis maneriis debebatur, sic, Deo inspectore, commuto*”, as in this mode of donation, which only leaves room for other completion, as far forth as proper persons should be wanting de genere et parentela ejus (his many sisters families, as noticed in the evidences, &c.) to fill up the whole appointment.

AND on the same account, though with some abatement of expression, on the college being rendered a larger and more publick institution, it is at length ordered, that the first and principal consideration should be had of his kindred, and that they, in all admissions, &c. *precipui sint et primi*.

BUT then this notwithstanding, and many and lasting as the after-admissions of kindred might hereupon seem likely to be; neither the particular evidences, nor general history, of them, will admit of its now being thought, that they really were so: indeed they even go to the shewing the very reverse of their being either the one, or the other, either many, or more than 200 out of 500 years lasting.

AFTER Williot's institution, for younger scholars, as in *Aula Portionistarum*, at the end of about one century from the completion of the college, we meet with little or nothing respecting the *parvuli de genere fundatoris*, as before under the college care in *Aula Monialium*, now the Western part of Alban-hall. And long before the expiration of another century, from confusion of kindred, defect of title, and defect in proving it, &c. the claim for fellowship appears to have been expiring.

THE college were always very properly exact and cautious in this matter; as by no means disposed to admit for kindred those who were not such. To this the proceedings in a case so early as in 13 Ed. II. 1319-20, and but little more than forty years after the founder's time, and, together with these, all subsequent proceedings bear attestation: every proper satisfaction, and from the persons most capable of giving it, viz. the kindred at large, or such of them as stood nearest to the line in question, seeming to have been required.

AND in the time of king Henry VI. when Elias Holcot was warden, from 1438 to 1454, and the claims came to be much disputed, it appears that the warden, on these occasions, either himself, &c. repaired to Basingstoke, the more especial seat of kindred, and place of proving it, and there in person examined the proper witnesses upon oath: or else, if not there, as by any necessity prevented, he commissioned proper persons (such as the vicar and chaplains of the place) to take the depositions of a kind of inquest of relations, &c. (neither inclining to extend the privilege, nor exclude a relation) \* and to return the same, with a pedigree thereupon, as a public

\* SEE the ancient proof of villenage super consanguineos de eodem Stipite unde ipse [sc. Nativus] exierat, exeuntes. Glanville, in Blackstone's Essay.



instrument, and in full form, by a notary public: the matter, for greater solemnity, being done and concluded in the church of Basingstoke. "Acta in ecclesia de Basingstoke, sub manu publici notarii."

AFTER this reign, we find but three persons who seem to have been elected or admitted upon the claim of kindred; and the last of them was in the year 1486,—Ric. III. And as these three are so memorably and remarkably mentioned and recorded as of kin to the founder, in the college-register commencing but in 1482, 22 et ult. Ed. IV. and in its catalogues, and moreover in its monumental inscriptions, &c. it is not likely that in later times, and with a register in regular and constant use, we should have lost the memory of any others, if there had been such. And, indeed, that any other pretension of this kind would not have passed unnoticed, we may, I think, conclude, from the only subsequent one that now appears in the register, with respect to the junior of seven persons elected in the year 1577: it being on his election entered for remembrance of it. "Qui non ideo eligitur quod de genere fundatoris sit, quemadmodum ejus pater probatum cupit, sed quod bonæ spei juvenis, &c." Indeed the archbishop, (M. Parker) to whom early application had been made and a pedigree produced, by the party, had wrote betimes to the college, inciting them to consider well his claim, and beware of ingratitude, and such his intimation, though he died so long before the election as in 1575, might weigh, inter alia, for the not rejecting this candidate, *he*, as the archbishop had told them, *meaning no disturbance to the society*.

IN regard then, not only to the infrequency and discontinuance, but to the not after (as in other instance) revival of the claim, it is to be recollected, that as it commenced in somewhat dark as well as distant times, and had greatly involved in it a more impairing than imparting principle, a never ceasing celibacy in the elected; so it was well nigh worn out before the invention of printing, or preservation of pedigrees in the college of arms, and almost before a regular register was begun in Merton-college, though it was the first college which had one, and long before the coming in of parochial registers.

AND to this may be further added, that the Merton-pedigrees do not, as the *Stemmata Chicheleana*, include a vast number of names, and a vast number of noted ones, from the time of the Chichele-foundation, to the present day, but are only the lineage of a few, a very few, and in general, more humble and less distinguished persons, wanting and having this support, in a course of time almost all precedent to that foundation; and from whom, if dying unmarried, there could be no descents: And that it is more than three hundred years from the last allowance of any such pedigree.

AND here, in looking back to this first founding of colleges in the universities, it cannot but be seen to have been by a very publick person, and a person no less publickly



lickly inclined; and who, in deriving most of his fortune from church and state, was not unmindful, in his lone situation, of bestowing it to the benefit, as he thought, of both of them. It appears, however, from the above, that far from any intention of depriving even his collateral kindred of the whole benefit of his estates, this great and illustrious prelate and statesman, as well as first and original founder, united his private with his publick regards, and intended his relations, as well as his country, the use of his fortunes, in the way he thought best and most useful for *them*, as well as for the community. Much of his acquisitions, it is not to be overlooked, would not have come to either, but in this his much approved way of disposal; and it is still further to be adverted to, that besides this two-fold and thus extended provision, for the young, as well as for the more adult of his kindred, in his college; and besides the many remembrances of the many of them, in the no small family-part of his will; he had made other provision, and as he saw fit, for his no way necessitated sisters, and their families, out of it, and in his life-time; by lands and tenements bestowed on some of them; by charging the estates he gave to his college with annuities for others; and by otherwise advancing a great many more.

AND to the credit of his college, and of his family, be it likewise remembered, that as the college variously, and very gratefully, considered and contented his three surviving sisters, and the representatives of three deceased ones, who were all his heirs, for their several quit-claims to the college-possessions; so his heirs, on their part, no less handsomely and respectfully concurred with their much honoured relation's dispositions and intentions, in their several acts for this purpose.

AND, that the college, though the great, is, not the only, still remaining publick object of his good and beneficent attention, the history of the churches, which,

\* BESIDES the remembrance in his will, he gave a hundred marks to Thomas de la Dune upon marriage with one of his nieces. And besides as much given to Robert Fitz-Neale who married another, he was otherwise of very signal and much more material advantage to him and his family. And we have the following, and somewhat curious Item, amongst others respecting them, in that part of the executors accounts, which bears the style of *Petitiones super executoribus*. "Executores domine comitisse Wynton. petunt ab executoribus domini Walteri Roffensis Episcopi XX marcas, pro eo quod uxor domini Roberti filii Nigelli, que fuit neptis dicti domini episcopi defuncti, perhendam in camera domine comitisse, per aliquod tempus, ejus sumptibus". [and which countess by the bye owed the bishop XX marks upon bond.] And from the remaining evidences in these instances, there is a strong presumption of similar conduct in similar cases which have not come down to us. And if not by his means, it probably was from regard to him and his memory, that his nephew, and first named and much confided in executor, William de Ewell, (who according to Mr. Wood had been of his college, and for whom he had resigned a living in 1272,) succeeded him in his prebend of Finsbury, if not in his prebend of Bere likewise, the said William, in his quit-claim to the college, without date, but not long after the death of the founder, being styled *Magister Willielmus de Ewelle, Canonicus sancti Pauli London, et beate Marie Sarr*. In short there is great and abundant evidence, that he, (the founder) both in his college-foundation and out of it, was a most judicious, useful, generous, and kindly affectioned relation.

to



to their advantage, he was a member of, and the evidences of that church in particular, of which he was the bishop, may very amply, if not to the full, inform us.

IN respect to the last, he has added the manors, and advowsons, &c. as to be seen in *Registrum Roffense*, *Annales Ecclesie Roffensis*, and in his Will, to the bishoprick, as then the smallest in all England, and to which he is said to have been preferred, that a rich prelate might maintain the honour of a poor bishoprick; and which he did, not only in his own person, but by the so enabling his successors, as by these additions, to live without those contributions, which, under pretence of the smallness of the see's income, his immediate predecessor (though otherwise aided by a dispensation) is said to have laid the whole clergy of his diocese under.

BESIDES this bishoprick and the canonries, as in the note, Walter de Merton is seen to have died possessed of the great rectory of Sedgefield, as collated to it by Nicholas de Farnham, whilst bishop of Durham, i. e. between 1241 and 1248; and who, as a great friend and patron, is gratefully remembered by him in the beginning of the college-charter of 1264. And besides these, it does not appear that he had any other church-preferments at the time of his decease.

AND here then, in fine, and upon the whole, it may not be unsuitable to observe, that it seems to have been in the order of that providence which educes good from evil, that the principle of celibacy, to which the college-institutions, with their provisions for remoter kindred, are more or less to be attributed, should, in the full and sufficient establishment of them, find its utter extirpation, by that general diffusion and dispersion of light and knowledge from them, which, under the peculiar blessing of the great giver of light and liberty to this nation, effected a reformation in that and in other its concomitant impositions.





### III. Of the special and appointed PATRON of Merton-college.

“ DOCTOR *Marten* against the archbishop of *Canterbury*, as visitor of *Merton-college* in *Oxford*, B. R. Tr. 11 & 12 G. 2. This was the case of a private fellowship. It was contended, by Dr. *Marten*, that the bishop of *Winchester* was visitor. The other side shewed, that the archbishop had exercised this power, but the bishop of *Winchester* never had: And it was said, that as the case was doubtful, a prohibition was proper: But *per curiam*, “ Though long usage will not give a right, yet it is strong evidence of it”; and a prohibition was denied. 1. *Burr.* 158. 1. *Burn's Ecc. Law.* tit. Colleges.

FROM the account of the above hearing, on the 17th of June, 1738, as transmitted to the college by Mr. counsellor Wright, (at that time the college-steward, and principal agent, and soon after member of parliament for Abingdon,) and together with it what is entered on the college-register, the evidence for the archbishop's authority seems to have been that of the Lambeth-registers, from the first commencement of them with archbishop Peckham: and this in reply to what the doctor had suggested of the nomination of the bishop, and no-nomination of the archbishop, in the charters of the foundation. “ So that when it came to the judges, “ they were all clear in opinion, that the usage was a legal evidence of right: and “ that they would presume an appointment of the archbishop as visitor, though it “ could not now be produced”. Mr. Wright's letter.

AND if this deduction of evidence in presumption of an appointment to the above office, though no otherwise appearing than in such exercise of the authority arising from it, was sufficient of itself to set aside or preclude the pretence of other appointment, but without any exercise of authority in shew of it: It should surely have prevented the proceeding on such pretence, to have seen, as was to have been seen, the one appointment superseded in the other: and then, in consequence, archbishop Peckham, on his succeeding to Kilwarby, after the time of the founder, in direct contrariety to what is imputed to him, not only in the most exact agreement with himself, (as in his register the very first of the Lambeth ones,) but in agreement, consequent agreement, with them, (the founder and first patron) and with what remains of them in the appointment he is affirming.

AND first, in the very change of the words of designation from EPISCOPUS WINTON. as in the first charter of 1264; to those of LOCI DIOCESANUS, as in the second of 1270; and to that of PATRONUS, as in the third and last of 1274; and under the different circumstances of these three several charters,



(as in the note (1) underneath,) there is a foundation laid for that thereupon ensuing change of person, which exactly corresponds with the change of expression. And as in respect of so long and established a usage for the archbishop, it may be a satisfaction to see it in accordance, instead of disagreement, (as suggested,) with this change in the charters, by looking up to the one from the other; so in looking from this

(1) FOR information in this and other particulars, this college is to be looked back to in its first, and second, as well as in its last, charter; it being in its origin, (instead of as now simplified, amongst the succeeding colleges, into a one sort of house and people [scholares only] at once, and as if by a one charter, fixed in, and confined to, a one university,) a no less complex than primeval foundation; a college of two different sorts of persons, [scholares et fratres] in two different sorts of houses, and in two different sorts of places; the one of these houses (as the house of learning) no otherwise fixed than to the university where it best might be; and the other, (as the house of fund or foundation, and so THE HOUSE,) no otherwise confined than to any part of its territory, where it best might be. And thus, and in this sort, THE HOUSE OF SCHOLARS, in 1264, being instituted in the diocese of Winchester, and all their endowment, or territory, or fund of foundation, being then in that diocese, the seals of the diocesan and his concurring chapter are, together with those of the king and founder, affixed to the charter of this date; and John bishop of Winchester, as properly made a party, is, by name as well as office, invoked ob Dei misericordiam, and specially appointed their PATER, PROTECTOR, et DEFENSOR. The college-territory, however, or its endowment, at the time of the date of the next charter in 1270, being extended into a great variety of other dioceses, the *loci dioecesani* at large, and not the bishop of Winchester in particular, is referred to for the same office. And according to this designation, the bishop of Winchester was continued with the continuing of the college in his diocese; and any other bishop alike appointed on removal of it into his diocese, if such, from its having any of the college-territory within it, as the college might be removed into. The bishop of Lincoln, however, was prevented from succeeding, on removal of the House from Maldon to Oxford, by another and different appointment, under the removing charter of 1274. When on a still more general extension (on occasion) of the place of Habitation, &c. (though then within the seat of learning) the still more general and extensive word PATRONUS is substituted for the other expression of *loci dioecesani*: and the primate of all England, as then appearing to be greater and of more importance in Oxford, as well as out of it, than the diocesan, is seen acting as patron, under the founder's seal of approbation, in two years after: viz. in 1276, and from that time downward.

AND from the different extent of the college-endowment it is, that the diocese of Winchester, as one only amongst the other dioceses wherein the present endowment of the college lays, has lost that particular preference which in the election to fellowships it had over other dioceses, when all its endowment was within that particular diocese: It now, though named in the last statutes of 1274, at the head of whatever dioceses together contain the whole of the college-territory, sustenance, and endowment in them, being but in common and alike privileged and preferred as each and every of them is.

IT has been objected to archbishop Peckham, that, in his injunctions of 1284, he says, the founder had given a preference to the dioceses of Winchester and Canterbury; but on recourse to the passage, it is not seen, that he does so say; but only, that as the founder had given a preference to the dioceses out of which the college had their support, he orders that *secundum regulam* (though by the college always held to be *ultra regulam*) the dioceses of Winchester and Canterbury should, without exclusion by other filling, be considered in electing, according to the quantity of the support they afforded. And hence perhaps it was, that the Northern candidates took occasion to complain of their not being considered, as they ought, in the elections. The founder, however, did not order any such proportion: and



this change to what more immediately ensued for the establishing of this usage, there will be no decrease of satisfaction, in seeing the devolution of authority, as witnessed and avouched in the very first exertions of it, and in consequence proceeded on in all that have succeeded.

TO recur, therefore, to the word *patronus* in the last charter, as, on other alteration therein made, intending the superseding of the *bishop of Winchester*, as before, and alone, appointed in the first; and in common with any other *diocesan*, in whose diocese the college might happen to be, in the second.—However the archbishop might be intended in that word, it is not seen in it, but that, under the founder's own administration, there might be some postponing of the nomination; but whether there was or not, that, in some sufficient mode or other, (though not the very same, perhaps, in this the first and most ancient instance, as in the latest, which may have since thereupon succeeded) the founder did appoint the archbishop, and all his successors, to the office which he described, as the *patron's* (2), is as here brought into view, as though to the credit of the founder, not so shewn on the trial, nor since so credited, as it might have been.

ON looking to the last great change in this *most noble college*, as taking place *sub id ipsum tempus quo* [*fundator ejus*] *Roffensis designatus est episcopus*, [as in Godwin,] we behold, without surprise, the same superior patron of the founder's see becoming patron of his college likewise. And as the pre-eminence of the archbishop is declared to be the motive of his being appointed, there seems some room for not excluding this part of his pre-eminence from it.

BUT to wait for what occurs of the motive, as in the hereafter assurance of it.—Grounded then, as we are, in the charters concurring, instead of clashing, with the usage, and giving it a sanction, as well as receiving one from it, in so doing: we come of course to such succeeding acts of the founder, and earliest ones of the archbishops, as are in further shew of *their* being patrons, and by *his* appointment. And, as first in course therefore, we come to those which either in themselves, or in conjunction with the rest, and upon the whole, may seem in favour of an earlier archbishop than Peckham appearing as patron, and that not as a succeeding, but the primary appointed one. And to proceed in this order:

and the college have always resented, as they ought, any visitatorial attempt to restrain them in that liberty of choice permitted them by their founder; and of which the most notoriously noxious as well as unstatutable instance is to be seen in the xxii d injunction of archbishop Laud, A. D. 1640. His Merton-visitation, as then ended, is therefore not causelessly, though too strongly and indiscriminately, branded in the college-register; and it was in other sort objected to him, whilst he was under prosecution: Sir Nathaniel Brent being at each time warden.

(2) FOR the office of patron, see the college-statutes, c. 25, 29, 31, 32; and for that statutable word, as the only one in use by any patron till 1581, see in the college-register, warden (afterwards bishop) Bickley's letter of that date to the then patron, archbishop Grindal.

THE



THE Founder, some few months after the above conspicuous change in himself and in his college, made his will, and not a little in favour of his college, and for greater security, had the seals of the archbishop, (Kilwarby) and of his (the founder's) successor in the office of chancellor, and of the pope's nuncio, together with his own seal, affixed to it. *Actum apud Merton, XX nono die Martii, Anno Domini M. CC. LXX. quinto*, with six executors, three assistants, and many very respectable witnesses named in it, and subscribed by the proper person, *in signum probationis ejusdem*. v. p. 85.

AFTER this, but before the expiration of this same year, this same archbishop, by an instrument under his archiepiscopal seal, confirmed the foundation; and then again, in the same words as before (and with a like confirmation by the diocesan,) he again confirmed it in the beginning of the year 1276; yet consequent to, and possibly in consequence of, that more direct evidence which preceded at Easter, and with which these other evidences concurred but as shewing such particular intercourse with the founder and his college, as might either lead to, or proceed from, such an appointment. The title, as prefixed, is exactly as follows. *Ordinationes ex visitatione archiepiscopi Cantuariensis biennio post foundationem habita, quibus affixum est sigillum fundatoris, in suæ approbationis testimonium*. And at the end of these is the following subscription, *Hæc prædicta ordinata erant et statuta per fundatorem collegii de Merton in festo Paschæ 1276, ut patet sub sigillo ejusdem*.

AND from this time, at least, of this concurrent act of founder and archbishop, the latter should seem to be acknowledged as the founder's well appointed *fidei commissarius*, and the person appointed to the office allotted to the patron in the statutes: these subsequent *ordinata* of the one, and *injuncta* of the other, being considered as the last perfecting of the college by both of them, and as a kind of supplement or appendix to the statutes; an addition then more immediately wanted, and since generally retained after them in our statute-books.

TAKING, then, this as the prime evidence of the introduction and interference of the primate as patron, and at the same time apprehending the sealed original to be missing and mislaid, it may be worth while, in favour of so early and material an act, and of the many copies which from time to time have been taken of it, to observe, as follows, of the no want of other evidence, either internal, or external, of its entire authenticity: That the very nature and contents join with the tradition of it, in generally forbidding any doubt to be made of it: And that in particular respect to its early reception and long appearance, we have no less than these three very various, indubitable, and concurring assurances:

AS first, that it is thus catalogued amongst the *XVIII Litere* (3) *foundationis et confirmationis Domus de Merton*, in that most curious, exact, and valuable, illuminated

(3) *Litera* is the general term for all the confirmations, &c.



register, repertory, and abstract of the evidences of foundation and endowment, very fairly written on both sides of thirty six small folio leaves of vellum, so early as 16 Edw. I. 1288; and, from its red loose leather cover, called *the Red Book*. *Litera venerabilis patris domini W. Roff. episcopi facta Domui Scolar. de Merton, in qua continentur plures articuli Domum Sclarium tangentes*:

SECONDLY, that after this, there is in the old statute book called the warden's, the following entry, in p. 32, respecting a most antient copy of this evidence; *In rotulo antiquo in quo continentur apographa statutorum 1<sup>mae</sup> & 2<sup>dae</sup> editionis: Hæc ordinatio occurit, ab ipso fundatore facta, inter opistographa illius rotuli. Sequitur subscriptio in hæc verba.—Ordinata erant et statuta per fundatorem, &c.*

AND then, thirdly, that the following is part of a note, which the compiler of this paper transcribed from a most curious and neatly written statute-book, sometime in the possession of Dr. Conant; and afterwards bought by an earl of Peterborough, and had out of his collection: “Walterus de Merton obiit anno Dni 1277, in vigilia Simonis et Jude. Habita est visitatio apud collegium, per dnum [Robertum] archiepum Cant. biennio post foundationem, sc. anno 1276; in qua constitutæ sunt quædam ordinationes, sigillo fundatoris in signum suæ approbationis appenso. In circumferentia sigilli hæc verba leguntur, WALTERVS: DEI: GRATIA: ROFFENSIS: EPISCOPVS. Anno post foundationem decimo, post obitum fundatoris septimo, sc. anno 1284, factæ sunt aliæ ordinationes per dnum archiep. quarum initium est hoc. Frater Johannes, &c. Datæ sunt illæ ordinationes secundo kalend. Septemb. anno 1284, (4). Habentur exemplaria cum priorum, tum posteriorum, ordinationum in communi thesaurario collegii quæ inspeximus præsentis hoc anno 1598, 22<sup>do</sup> die Aprilis, secundum computum ecclesiæ Anglicanæ”: The time of searching for materials for the founder's monumental inscription. This note looks as if intended for the college-register, though not (as it is thought) inserted in it.

THE founder died, (as in the foregoing note) the 27th of October, 1277, but one year before archbishop Kilwarby was made a cardinal, and quitted Canterbury; and in that one year, when, upon the loss of their founder, the college were put to some suit or trouble, on account of some of their lands and possessions, the same archbishop graciously, and (as it should seem) officially, patronised their suit, by giving the warden a letter to the king, for a favourable hearing of him and his cause; which may be seen at length in Prynne's collections from the Tower-records, Tom. iii. p. 1226, as taken from a bundle of petitions, 6 Edw. I.

TO him, on such his removal, succeeded J. Peckham in the primacy, and with it, as above, and before annexed to it, to the patronage of Merton-college likewise.

(4) Still under seal of the archbishop in their proper place in the college-treasury.



And in remaining evidence of this, no longer after his becoming archbishop, than about Midsummer, 1279, he sees occasion to address himself to the college, on this very ground, and in form as followeth: *Littera Joh. Peckham, Cant. Archiepi, Scholaribus de Merton, 2 Non. Junii, A. D. 1279. Regist. Peckham, fol. 170.*

“ FRATER J. &c. Scholaribus de Merton, &c. In remedium studii pereuntis,  
 “ &c. Deo providente, &c. a viro prudentissimo, &c. Cujus fundatoris vestri  
 “ tantam constat fuisse prudentiam, ut ab ipsius ordinationibus, quas mente solici-  
 “ ta, &c. multorum sapientum consilio, &c. non sit faciliter recedendum, &c. Qua-  
 “ propter karissimi, nos qui, ipso volente, ratione archiepiscopalis officii, collegii  
 “ vestri gerimus patronatum, vos hortamur in domino, et districte precipimus,  
 “ sicut nostro velitis presidio consolari, quod vitam vestram, mores, et studia, pre-  
 “ dicti fundatoris vestri sacris dispositionibus in omnibus conformetis, &c. &c. &c.”

IT is much, that there should be any occasion to observe upon an address, in itself so very apposite and decorous, and so perfectly according with every thing that had preceded; that it was made on a succession to the archiepiscopal see, after the settlement of the college, and the death of its founder; and that it was made within two years after the death of the founder, in the face of the world, and in the sight of the many wise men therein referred to, as consulted, on this no less generally adverted to, than new and extraordinary, establishment: and that the archbishop, far from obtruding himself on the college, (as suggested,) exhorts them to their duty of observing the sacred rule of their founder, *sicut nostro velitis presidio consolari*. It so however, has happened, and it cannot be better seen than by an extract from Mr. Wright's informing letter of 17 June, 1738, (as before referred to,) that he has been considered, however strangely, as having usurped the patronage, and that upon his own most extraordinary avowal in the above letter.

“ THERE was one thing very remarkable appeared in the course of the evidence:  
 “ For Peckham, within two years after the death of the founder, sent down an in-  
 “ strument to the college, wherein were these words, viz<sup>t</sup>. Quapropter, carissimi,  
 “ nos qui ipso nolente, virtute officii archiepiscopalis patronatum gerimus, &c.  
 “ This was insisted on, by the doctor's counsel, as a proof, that Peckham owned  
 “ he had assumed the patronage against the will of the founder; nobody being  
 “ named but Peckham and the founder; but the judges, to shew their skill in in-  
 “ terpretation, declared, that *ipso nolente* must be referred to Peckham, and not to  
 “ the founder, and so would not understand it to be of any use to the doctor”.

AND here again it seems somewhat extraordinary, that the expression *ipso volente*, as intended by the archbishop, should be taken by the court and counsel at the trial, and by the college after it, for the very contrary one (as applied to the founder) of *ipso nolente*, without its being within the view of any one of them, that the letter u, in the writings of those and other times, is not always distinguishable from



from the n, otherwise than by the sense and congruity and other information. And, the present observer thinks he has some slight remembrance, though upon a very slight and long since hasty perusal, that the u in the word uolente is not the only u in that part of the register which looks more like an n than a u. The sense and import, however, of the whole is decisive for the latter, and whoever can look at the passage, without requiring the u in it, let him only compare it with the introductory one to the injunctions of this archbishop, as subsequently given under seal by him in 1284, and still in being, and here brought in sight, to shew the confirmation each receives from each, in the form and order they are severally found: the whole introduction to the larger instrument being but the exposition of that mind, motive, and intention of the founder, five years before, more briefly included in the words, *Quapropter, karissimi, nos qui, ipso uolente, ratione archiepiscopalis officii collegii vestri gerimus patronatum*—as in the instrument of fewer words and less formality, in part above recited. The larger, however proceeds as follows:

“FRATER Johannes permissione divina Cantuariensis ecclesie minister humilis,  
“totius Anglie primas, dilectis filiis magistro et scholaribus de Mertona, salutem,  
“gratiam, et benedictionem.

“SANCTE memorie plantator vestri collegii ac fundator, intentione piissima,  
“archiepiscopo Cantuariensi ejus contulit patronatum, pro eo quod ipse archiepiscopus  
“copalis sublimior auctoritas, latior jurisdictio, zelus sincerior, existere consuevit,  
“inter ceteros prelatos ecclesie Anglicane. Licet igitur, in archiepiscopali ordine,  
“magis numero, quam vite merito, succedamus; ad vos tamen preclaram cleri  
“Anglie portionem imbecillitatis nostre oculos convertentes, &c”.

AFTER this, the same archbishop, in the November following, interposes by commission for settling some dissention in the college. And in addition to these distinct indications, there is to be seen, in this still early state of the college, a continuance of such interposition as was before noticed in the time of his predecessor, as though not of itself evincing the patron, yet in some sort implying a patronising attention in the person otherwise evinced to be such.

AND to such his attention may be attributed the further confirmation of the college, by him and his provincial synod of bishops, convoked and held by him at Reading, quarto kl. Augusti 1279: the same, with the proper and episcopal pendent seals of all of them, being still extant in the treasury of the college.

AND so likewise, to such his attention may be attributed *Littera Johis episcopi Cantuar. de decem octo Litteris*, it being an attestation and exemplification of the donations and appropriations of churches to the college, *quam fecit sigilli sui appensione muniri, ut act. sub manu puppica, 7 Septembr. 1279*; and is still in such sort extant.

AND



AND so likewise, the having entered in his register, fol. 103, a. a memorandum of the auditing and making up of the accounts of the founder's executors, as personally present, (five of them) and appearing with Peter de Abingdon, the first warden, &c. A. D. 1282. See before p. 86.

AND to this finally, that he was looked up to, as the proper and successive domestick judge and patron of the college, seems to be attributed the reference to the archbishop for the time being, for coercion, upon occasion, in an agreement between the college and Thomas de Worthing, son of Cristina sister to the founder, in the latter end of the year 1283.

THE next in succession to Peckham was archbishop Winchelsea, in 1294: and he appointed one out of three persons at the two several elections of wardens in 1295, and 1299, returned (as on each of these two occasions is expressed in his register fol. 175, b. and fol. 273, b.) *nobis Domus memorate patrono, &c.*: the college then and thenceforth being always mentioned by the archbishops, as of their patronage, *nostri patronatus*; and themselves interposing on its behalf, (as see in the cases of Ponteland, 1301. [R. Winchelsea,] and Emildon 1331 [S. Mepham,] and in other evidences) *eo quod patroni sumus ejusdem*. See before pp. 80, 81.

THE bishop of Winchester, though interposed by Dr. Marten as the only person named in our charters, never interposed himself, as the patron. A bishop of Lincoln (J. Aldbun) as *loci diocesanus*, was inhibited by the next archbishop, (Walter Raynold) *ne visitet Domum de Merton, nec personas ejusdem, ejus patronatus, a tempore foundationis*. XI. kl. Junii, A. D. 1314. Reg. Raynold fol. 56.

ANOTHER bishop of Lincoln, (Henry Beaufort) who sent monition to the college, to visit, was appealed from to the court of Rome by them, 1397, "quod huc  
" usque liberi fuissent et immunes, &c. ac dno Cantuariensi archiepiscopo predicte  
" Domus patrono, quoad visitationem et omnem et omnimodam jurisdictionem  
" aliam immediate submissi fuissent", wherefore, et *pro tuitione curie Cantuariensis*, they appeal to the apostolical see. Reg. Pergam. in cista Oeconom. p. 15.

DOCTOR Nathaniel Johnson, in his fruitless attempt to vindicate king James II. in what he was doing in the universities in 1688, seems inclined to make the king the visitor of Merton-college in particular, as well as of its university in general; and therefore, amongst other things no more to the purpose nor better reported, he, in p. 251, of his performance, mentions the above appeal to Rome; but the claim it proceeded on, as in favour of another jurisdiction, and that the archbishop's is, as might be expected, entirely unnoticed by him.

THERE



THERE was indeed another appeal to Rome, which this writer might still more have availed himself of, had it been known to him, it being indeed commenced by the college against archbishop Chichele, as in p. 27, &c. of the parchment register just before referred to. It was an appeal to that court from the archbishop, on an apprehended invasion of the college-liberties, in what was enjoined them in his Metropolitcal visitation in 1425, 3 & 4 Henr. VI. an appeal from the metropolitan to a still superior jurisdiction, without impeachment of the inferior. And, by what is to be gathered from the remains of the writing, it seems to have been stopped by condescension on the part of the archbishop, in making the matter up with the college by the desired relaxation.

AND at such a distance do the college appear to have been from recusing the archbishop in his capacity of patron, that they, about this very time, sc. 3 Henr. VI. 1424, 1425, solicit him, as such, for favour and protection, in a contest they then had with the prior of Christ Church, Canterbury, concerning the right of them and their tenants to common in the pasture of Sparrowfield; and of which application the part most to our purpose is as here subjoined:

“ *¶* piissime pater, ne dicta domus scolarium, seu ipsius custos et scolares, qui de vestro patronatu existunt, et qui in suis juribus per vos ac predecessores vestros tueri solebant, et adhuc sperant per vos defendi pariter et tueri, exheredationis dampnum et tante utilitatis ab antiquo solite privationem incurrant, vestro tempore, placeat vestre paternitati reverende, &c.” *ibid.* p. 29. vide etiam in p. 20.

CLEAR then, as the case appears, both for the commencement and continuance of this authority, it might be too much to add more to it, than, that as the college cannot but on their own account, as well as from regard to their founder, most cordially unite with him, and with their brethren before them, in a general preference of the superior and more honourable patron he has obtained for them; so neither can they be without a very particular sense of that very kind and obliging attention, which on a late interesting occasion, and throughout the whole of it, was so gracefully and condescendingly shewn to them.





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IV. Of colleges as INCORPORATED: *their name, and nature ; priority, and precedence.*

**I**N the founding of colleges, as well at Oxford as in Cambridge, the word DOMUS seems to have been first in use ; then AULA ; and lastly COLLEGIUM.

FOR the word *Domus*, as first applied to our colleges in Oxford and Cambridge, in the rise and incorporation of them, we must look back from that rise by incorporation, &c. to the *pia loca*, religious houses, and established communities, they grew up amongst, and were in some sort fashioned after, or formed out of ; this being the general name or term of incorporation for every species of what are called *Houses* (1), and not *churches*, cathedral and collegiate ; and thus *Domus*, as the common name for that *House*, in which our founder had his education, the priory of Merton, *Domus de Merton* ; and for his own eleemosynary *House* or hospital at Basingstoke, *Domus sancti Johannis baptiste de Basingstoke* ; became, at some distance of time from his founding this hospital, imparted to his other eleemosynary incorporation of scholars likewise, *Domus Sclarium de Merton*.

AND so in respect to the first college in Cambridge, in like manner, and after this example, (which had been long in view of Hugh de Balsam, he having, ex officio, appropriated a moiety of a church in his diocese to this last House of Merton in 1268,) *Domus sancti Petri* became at once the ever after continued name of Peterhouse, in such sort as *Domus sancti Egidii* had been the name of St. Giles's priory, and *Domus sancti Johannis evangeliste*, was the name of St. John's hospital in that town.

BUT though this, and on this account, was the originally incorporating word for colleges in the universities, yet immediately after the prior use of it, as in Oxford and Cambridge, the word *Aula*, as more specifick and local, seems to have come into more general incorporation-use, and to have so continued, till at length superseded by the word *Collegium*, as more appropriated to houses of learning incorporated in the universities : *Seinte Marie College of Wynchester in Oxenford*, being the first

(1) ABBATIE, prioratus, collegii, hospitalis, seu alterius Domus pie seu ecclesiastice cujuscunque. vide A. 4. 21. pardon. fact. cust. et soc. coll. Mert. 14 Edwardi IV. 1471.



perhaps which had the name of *college*, in such sort, imparted to it: and that other noble one of King's in Cambridge being (as far as yet appears to the public) the first which was incorporated by the name of a college in that university.

BUT to deduce the colleges in the foundation-styles of them, in each university, till such incorporations had the name of colleges more especially appropriated to them:

IN Oxford, after *Domus* Sclarium de Merton, as before deduced in the name of it, University-college stands incorporated as a *Hall*, and Quære whether [as, in the present style of Brafenose college, *The King's Hall precedes and College of Brafenose in Oxford*], *The Great Hall of the University* is not the present style, or part of the present style, of University college, though originating in a tenement no otherwise great (2), than as compared with a smaller? Balliol college was founded by the name of *Domus*, and how afterwards styled, at first hall, and then college, see in Balliofergus pp. 35 and 81. Exeter college was founded by the name of *Aula*, and retained it till the term college became the generally prevailing one in ordinary: and in 1566, it was incorporated, as such, by Queen Elizabeth. Oriel college was at first styled *Domus Sancte Marie*, and with what variation after, see in Mr. Wood's account of it. Queen's, which is the immediate college before New college, (the first incorporated by the name of a college,) was founded by the name of *Aula*, and, as the immediate one before the change from Hall to College in Oxford, these are the words of its charter 14 Edw. III. 1340.—in quodam messuagio, &c. [situate as there] *quandam Aulam Collegialem* de Scholaribus Capellanis, & aliis, perpetuis temporibus duraturam, sub nomine *Aulæ Reginae de Oxon*, &c. *ad verum Collegium* erigimus, &c. Collegium, as here in use, and till the next succeeding foundation of Sainte Marie College of Wynchester in Oxenford, [1379], instead of being appropriated to academical colleges in particular, appearing but to intimate the incorporation of them in general.

AND in like recourse to the more early foundations of this kind in Cambridge, it is, in the first place, observable of the first, that though it still retains its original name of Peter-house, it is styled in its old statutes, viz. those of Simon de Montacute in 1344, *Domus sive Aula* throughout; and in these and other statutes, as accommodated to later and present use, *Domus sive Collegium*. Next, and forty years after Peter-house, in 1324, was founded another House of scholars, and by such name,

(2) GREAT, therefore, as upon comparison, it might be, as a townsman's house or hall, it was far from being so as a royal college: nor indeed does it appear from Mr. Wood or Mr. Smith to have been made *Aula collegialis* (the very least of those incorporated in Oxford) soon enough to be entitled even to this second place, which Mr. Wood (after other determination and even placing) has let it continue in.



viz. Michael-house, afterwards absorbed in Trinity-college. From the impressions of its common seal, [Device, St. Michael subduing the Dragon] and some evidences, which I have had the opportunity of seeing, I may take its original proper style to have been, DOM : SCI : MICHIS : CANTEBRIG : and yet, with like variety, as in Peter-house, Dr. Caius may be right, in making it, as in his Hist. p. 56. *Domus sive Aula Sci Michaelis nominata*. After these, come Clare-hall, Aula regia or King's-hall, Pembroke-hall, Domus Corporis Xpi & be Marie Cantebriggie, Trinity-hall, and Gonvil-hall: King's College, as is before said, being the first in Cambridge that was (Anno 1443) incorporated by such name. It was followed by Queen's-college, 1448: and then by St. Catherine's-hall, 1459, as then first founded for a master and three fellows only, and the last of the denomination of halls in Cambridge.

FROM all which, I think it is to be inferred, as before, that *Collegium* was the last word instead of the first, and *Domus* the first instead of any other, till after it, in use, on these occasions: and that as it was some length of time before *Collegium* became the more peculiarly appropriated term for academical colleges, so none of them seem to have been instituted such, but under that, or one of the other two preceding denominations. *Domus*, as first at Oxford, and afterwards in Cambridge, having the precedency of either of the other: *Domus* for instance, being in use as a term of incorporation, as well before *Aula* and *Collegium* distinctly, as before either of them in conjunction with *Domus*: as *Domus sive Aula*, and *Domus sive Collegium*.

AND thus, in each of the three progressive charters of Merton-college, *Domus* is the constant and continually occurring expression of chartered incorporation, not only without the word *Aula* at all occurring, but without the word *Collegium* in more than two places occurring: and in them, not, as in the since restrained, but as in the then more general use of that word, occurring. In the first of these, this institution, though once intended for an ingraftment on the House of Merton, yet as itself enabled and established by incorporation, was not to be thenceforth adjoined *alteri collegio*, to that or any other House of incorporation whatsoever: For academical college, till after this, *in name*, there was none; nor, *in reality*, any more than this one, till many years after it was existing. In the other place, the words *dicti collegii* once only, and at some distance, follow after the word *Domum*, for the more comprehensive collection of the there intermediately specified interior and exterior members of the said *Domus*, as *one college* or body corporate, by itself and distinct from all others

INDEED, Mr. Smith, in his Annals of University-College, p. 15. objects to Mr. Wood's use and distinction of the word *Domus*, as more, and more durably, adhering to Merton-college than to any other of the early colleges in Oxford, (viz. those



those either formed under that name, or the name of Hall, till that of *College* became the appropriate one). But then Mr. Wood had seen evidences of the other foundations, as well as of his own, which Mr. Smith had not. And in respect to those of University and Balliol, on which Mr. Smith proceeds, it may, to be sure, be affirmed, that as *Domus* was earlier, so it was more constantly and lastingly applied to Merton, than to either of the others. The word *Domus*, though frequently met with in his second statutes of University-college, in 1292, he might have noticed, not to be found in what he considers as their first, Anno 1280. And the word *Domus*, though found in the evidences of Balliol-college, as the word of establishment, in 1284, occurs not in them, but as such House in intention, Anno 1282. Whereas the statutable and chartered style of Merton-college, from its first incorporation in 1264, and on its common seal under that incorporation still remaining, and under each succeeding charter of 1270, and 1274, was, *Domus Sclolarium de Merton*. And as the statutes in the last of these charters have admitted of no alteration, so the chartered and statutable, has ever been the appropriate and proper style, though with the words, *or College*, (as then become general for these foundations,) more latterly interposed, by the Act of 1 Mary, 1553, for incorporating this society, by the name of the *Warden and Scholars of the House or College of Scholars of Merton*. Something too of the old name of *Hall* or *Great Hall* (the better to deduce it from king Alfred) may still perhaps adhere to University-college. But not so of *Domus*, with respect to Balliol; its chartered style from 30 Eliz. according to Dr. Savage, in his *Balliofergus*, p. 81, having been that of the Master and Scholars of Balliol-Colledge, only.

AND here, on this degree of insight into the prior rise and application of the corporation-name of our incorporation, there seems an opening to come at once to that priority of college-foundation, which the priority of incorporation, in the very nature of it, as priority of [birth and] creation, produces: but for self-satisfaction, to proceed to it a little more gradually, as follows:

1. PRIVATE exhibition, or exhibition in præsentî, is to be distinguished from public exhibition, or exhibition in perpetuity; or in other words, whatever private persons may, in their private capacities, and by temporary engagements, have done for scholars in the universities, there was no settling of their charity in perpetuity, but by the use and intervention, (i. e. by using the establishment,) of some public and perpetual body.

IN respect to the scholars of Balliol, therefore, it does not appear that they were even in this way of perpetually established exhibitioners, prior to their being formed into a college: whereas William of Durham's bequest being to the university, as a body corporate and abiding in succession; admitting any of his scholars to have been from him, and his donation, regularly and successively exhibited to by the



university they belonged to, they were indeed, from the time thereof, his perpetual exhibitors, or exhibitors in succession, but not his college, till by example of a preceding college, they were themselves formed into one.

2. AND here, therefore, intervenes another necessary *distinction* between such exterior exhibition, as that of William of Durham, exhibited to his scholars by the university, as invested with it; and such interior exhibition, (if so to be called) as a college itself has, when itself the invested body by incorporation and endowment. And though William of Durham did not, like Sir George Downing, leave his property for such incorporation and endowment, yet if, as such was effected by it, he is alike to be reputed the founder, there will be the same occasion in his case, as in the other, to make the founder, for the time interposed, to precede the foundation.

INCORPORATION and endowment, then, of scholars in the university, being what constitute an interior college in it, the time of their incorporation and endowment must be the time and æra of the foundation of it.

INSTEAD, however, of its being always seen, that they are so connected and united in college-foundation, in this country, as not without destroying the very idea of it, to admit even the supposition of their existing separately, and so, the one any more before than without the other; they have not only been spoken of, as independent principles, but as having in fact been both singly, and variously, imparted. Whereas no one of our present colleges can have become such, but on its having both of them; and on the having both of them, every one of these colleges could not but thereupon, and of necessity, alike become such.

3. THESE, therefore, incorporation and endowment; as actual foundation, are to be quite *distinguished*, as well from any prior, and conducing preparation and provision for it, as from all posterior, and, to whatever degree adapted, accommodation and advancement of it.

AND to see them in this sort distinguished, we cannot have a better and more informing instance, than in the foundation of New-college, *as no college*, till by them made such in 1379; though its great and magnificent author, in the order of his design, and for the more promotion of it, had maintained and educated his seventy scholars in Oxford, in various Halls or Houses of Learning, for above seven years before this: and, *as a college* in 1379; as then by them made such; though the first and foundation-stone of the college-building was not laid till after this, nor the building so completed as to receive his scholars, till, as then, for almost as long a time after, an incorporated and endowed, and so a perpetuated society or college of scholars in the university.

AND



AND so, and in like sort, and for more familiarly apprehending the same, in a lower and later instance:—Hertford-college (3) was no college, till by its incorporation and endowment by charter in 1740, notwithstanding the long and various pains of its founder, Dr. Richard Newton, to make it such; and in 1740, it was thereby as really and truly a college, as ever it will be, with all that shall ever be done to meliorate the state of it, and though much may still be done to meliorate the state of it.

BUT though there can be no endowment, no college-endowment, nor perficient-foundation, without or before incorporation, as incipient foundation to make it such; nor an eleemosynary corporation have existence without eleemosyna, or endowment in frankalmoigne to make it such; yet from the foundation of the first college to the last, some sort and degree of variety are observable in the connecting and bringing them together: licenses to found, in some instances, and for some length of time preceding the charters of foundation, and the taking in mortmain, as conceded in them.

THE most remarkable in Cambridge, as now in recollection, for distance of time between licensing and founding, is in St John's College, where the foundress (if she may be so stiled, before foundation, says Mr. Baker, in his preface to bishop Fisher's Sermon, p. xviii.) made provision to found; and both she, and the then king, her son, died before license in due form obtained for it; and where license was obtained in the succeeding reign, for not much less than two years before actual foundation, as therein conceded to the executors.

And so likewise, in Oxford, the foundress of Wadham-college had license to found, full two years before her charter of foundation.

BUT this, nevertheless, in neither college, is the date of the foundation reckoned by either Mr. Baker or Mr. Wood, to precede the charter of foundation: there

(3) " THE Ancient House of Learning, originally called *Hertford-hall* (a), and afterwards "*Hert-hall*, and then *Hart-hall*, and now *Hertford-College*, having received an Indowment in part, became, on the 8th of September, 1740, by the Favour of his Majesty King *George the Second*, "*a Society Incorporate for the Education, &c.*"

" (a) So first call'd in the year 1284, after the Name of the Original Proprietor of the Tenement "*Elias Hertford* a Citizen of Oxford. Being Letten to *Scholars*, it was call'd a *HALL*, and being "*Letten by Hertford, HERTFORD-Hall*; and is now, with the same Simplicity, stil'd *Hertford-College*, but may be call'd by the Name of any Other Person who will compleat the Indowment of it, "*or become the Principal Benefactor to it.*"-----The Beginning of this Founder's Statutes.

being



being a possibility, perhaps, that notwithstanding the license, there might not have been a foundation.

AND in our concern it may still be observed, that University-college, in respect to William of Durham; and Balliol-college in respect to John of Balliol; and Peter-house in respect to Hugh de Balsam; are all in the way of making their foundations precede license: and therefore quite out of the case of a license prior to foundation.

TO look, however, at what has been said of them:—and in their way.

DOCTOR Ayliffe in distinguishing halls from houses, and colleges from halls, as requisite, in his History of Oxford, I. 244, 245, characterises the colleges, as having plentiful revenues (and for the purposes there mentioned) *FOR EVER settled on them*: and then immediately adds; “whereof the first *THUS endowed* “in Europe were University, Baliol, and Merton Colleges in Oxford, all *MADE* “Colleges in the thirteenth Century”. And again, in the next page, 246, he says, “There were formerly in this University, before the *FOUNDATION OF COL-* “*LEGES*, [in the said thirteenth Century] 300 *Hospitia Studiosorum*, Inns, “Hostels, or Halls”.

AFTER this therefore, he must not be thought to intend that University-college was founded and endowed as a college, or made one by king Alfred in the ninth Century, however he might follow Mr. Wood “as carried away with the general persuasion “that the Foundation of this House [as a House of Learning] was to be attributed to the “piety of that king”.

Mr. Wood indeed had not only retracted, but long refuted even this error: but that he had so done was much secreted till very lately; though for some-time known to the person here noticing it, as once favoured with the use of Mr. Wood's MS. now publishing by Mr. Gutch.

WITHOUT this information then, Dr. Ayliffe proceeds in the usual course of precedency from University to Balliol, and from thence, in the third place, to Merton-College; and begins his account of it, p. 272, with this more showy than satisfactory compromise of the matter between Balliol and Merton. “THO’ we “find Baliol-College to have been the first House of Learning *endowed* with Re- “venues in this University, yet Merton-College had the Honour to receive the first “Charter of Incorporation here, according to the Municipal Laws of the Realm, “and the present State of Affairs”;—and as such, (he might have added) the very faculty, and immediate *sine qua non* for college-foundation, endowment, creation, and commencement:



commencement: the word *endowed* as in this distinction, and the word *endow* as below in the note, by no means coming up to *such endowment* as he had before attributed to the three first *THUS endowed* colleges of the thirteenth century. But to see this more thoroughly, we may have recourse to his own still larger definition and description of a college: he therein making incorporation essential to *such endowment*, viz. *college-endowment*, as in the note (4). So that on the whole it must surely be more seen than expressed, that Merton-college was the first college in the University, though not the first house of learning, and so not the first in precedency of any of the present colleges in it: It being, as clear as the earliest charter and earliest incorporation and endowment can make it, the earliest college of the thirteenth century.

Mr. SALMON of Cambridge town though a great historian, being but a small Oxford one, must be excused for quite reversing the last distinction in his *Present State of Oxford*, 1744, by saying in p. 112, "that of University, Merton, and Baliol Colleges, Baliol is held [Quære by whom?] to be the first that obtained a Charter of Incorporation, though University and Merton Colleges were erected before it, [But Quære how, and in what sort and sense, *erected* into Colleges before it, unless by earlier incorporation and incorporating charters?"] And again in his *Foreigners Guide through the universities* 1748, p. 19, See of "Merton

(4) DOCTOR Ayliffe in Vol. ii. p. 2, thus defines a College: "It is a legal Body or Corporation": and his immediate requisite to make it such (as in the next succeeding pages) is: "It must have a legal Commencement or Beginning", (i. e.) It must have "its Creation and Being from some Act of Law, as either from some Royal Grant conveyed by Charter, or else by some Act of Parliament: for altho' the Founder may build the House, and *endow* the same with Lands and Possessions; nay, and appropriate those Lands and Possessions to certain Trusts and Uses; yet notwithstanding all this, until such Time, as the Law has made the Persons, who are to receive the Charity, to be a Corporation with a Capacity of taking, &c. the Founder cannot of himself give a Being and Existence to them as a College or Body Politick: But to this End, he must purchase a Royal Licence, or an Act of Parliament; for tho' ancient Right or Prescription may confirm the Continuance of a College, when the Royal Charter or Record of Parliament is lost, whereby such College was at first founded; yet the Prescription in Propriety of Law, gives no Right in itself; but is only in affirmance of an antient Right, which such College was supposed to have had antecedent to the Loss of the said Charter or Record of Parliament: Nay moreover, tho' the King should give a Power to the Founder to name the Persons, and also to give a Name to his intended College, and a Power to make Laws and Statutes for the good Government thereof; yet when he has done all this, the College is not said to be made a Corporation by its Founder, but by the King or Prince, who grants it a Charter of Incorporation".

TO this may be added from bishop Stillingsfleet-----That if a private Founder cannot by his own power incorporate an Eleemosynary Society-----then we must go further than the meer power of the Founder in this matter even to that legal Authority which can alone enable them, *ut sint unum corpus, habeantque successionem perpetuam, ac sint persone habiles et capaces in lege*; and that must be either by Common Law or by Prescription (which is not pretended in the case of Colleges) or by Act of Parliament, as Hospitals are, 39 Eliz. c. 5. or by Royal Charter. *The Case of Exeter-College.*



" College, as founded and endowed, but not incorporated Anno 1274." [But Quære how otherwise *founded and endowed*, than as it then by *incorporation* was, and for ten years before had been?]

AND then in regard to Mr. Smith:—Right as he is in proving king Alfred to have had no more concern in the founding of University than of any other college; yet, as too much prepossessed with the desire of nevertheless retaining it the first founded college, he is evidently wrong in giving it, though with a right founder, not only an uncertain, but an irregular and illegal commencement; and this on the mere supposal of an earlier though mere exhibition: his mode of settling this matter in his *Annals of University-College* 1728, pp. 14, 15, 23, 67, 70, as far as through the confusion and misuse of terms, &c. is there apparent, being this.—That it was no less than enough, to make University the earlier College, provided, as William of Durham was the earlier *Benefactor*, any three Scholars were together made, but without ascertaining that any three were together made, to partake of *his Exhibition*, before there was any other such participation from either Merton or Balliol.

IN regard to which and in the way of before proceeding—If neither donation without authority, nor authority without donation, will avail to the founding of a college, (and which must here intend an *English* (5) and *Academical* one,) and there must be, what are called both *incipient* and *perficient* foundation, to the erecting of one: however provision for endowment, as leading to foundation, may have acquired to the provider of it, the style, title, and appellation, of founder: and moreover

(5) TO see our colleges, as so distinguished, we may have recourse to Sir William Blackstone's Commentaries, Book I. Ch. 18. Of Corporations. Where, together with what is here extracted, are shewed the advantages of these incorporations, by considering the case of a college in either of our universities, founded *ad studendum et orandum*, for the encouragement and support of religion and learning.

" The honour of originally inventing these political constitutions [of artificial persons, before called bodies politic, bodies corporate, (*corpora corporata*) or corporations] certainly belongs to the Romans.-----They were afterwards much considered by the civil law, in which they were called *universitates*, as forming one whole out of many individuals: or *collegia*, from being gathered together: they were adopted also by the canon law, for the maintenance of ecclesiastical discipline; and from them our spiritual corporations are derived. But our laws have considerably refined and improved upon the invention, according to the usual genius of the English nation."

THOUGH therefore, as is after said, " Corporations, by the civil law seem to have been created by the mere act, and voluntary association of their members; provided such convention was not contrary to law, for then it was *illicitum collegium*."-----Yet " with us in England, the king's consent is absolutely necessary to the erection of any corporation, either implicitly or expressly given. The king's implied consent is to be found in corporations which exist by force of the *common law*, to which our former kings are supposed to have given their concurrence; common law being

" nothing



moreover may have acquired, as well to his college, as to himself, a precedence before other colleges of earlier foundation, though of later provision in such sort made for them; yet no foundation can precede itself, nor become a college before it is made one; nor be made one but by the only necessary means of perpetual incorporation and endowment: (i. e.) incorporation on endowment, and endowment by incorporation, and both in perpetuity. The consequence of which must needs be, that though the college of the prior provider may have precedence given to it, on his account, it cannot have priority, on its own, the college that was first made one, most indubitably being the first college, past all choice of giving, or bestowing, the priority though not the precedence. If therefore the matter wants compromising, it must not be, by disuniting, and separately disposing of, the two Essentials of college-foundation, incorporation and endowment, in manner as aforesaid, and quite unconstitutional; but by distinguishing, as much as may be, between founder and foundation, precedence and priority:—though possibly, in more modern time, the prior donation of Sir George Downing might not obtain to his future college, even the precedence to any other, intermediately founded, and before it.

AND not to scruple the position, that three Scholars may make a college as well as threescore; it still remains, that unless either the three or the threescore, may make themselves, or by their endowers alone, be made such:—there still is wanting some other way of making, and there may be a difference, in Rome, and England, in the mode of making; and here, if not in either *imperial*, or *pontifical* (6) Rome, some

“ nothing else but custom, arising from the universal agreement of the whole community.”—Of this sort are the king himself, &c. “ Another method of implication, whereby the king’s consent is presumed, is as to all corporations by *prescription*, such as the city of London, &c. The methods, by which the king’s consent is expressly given, are either by act of parliament or charter.”

“ ALL the other methods therefore whereby corporations exist, by common law, by prescription, and by act of parliament, are for the most part reducible to this of the king’s letters patent, or charter of incorporation. The king’s creation may be performed by the words “ *creamus, erigimus, fundamus, incorporamus*,” or the like.”

(6) THE word *pontifical* is here above added to *imperial*, inasmuch as there is another writer, who, out of all exactness, seems, in the following very extraordinary clause, to make, in some instances at least, the royal authority, less primary, than the papal, in establishing of the colleges in the universities of England: the *fundatio incipiens*, by a very unheard of transmutation, being in effect attributed to the pope, and some subsequent confirmation only of such foundation to the king. Hist. of C. C. C. C. 1753. p. 12. as follows.

“ AT length when this Union [between the two Gilds Corporis Xpi & B. V. Marie] was agreed to by both Parties, about 1344, they thought it adviseable to apply to the King, by their common Friends, for a Faculty for perfecting thereof, and for the better establishing the college, which



some higher authority may be seen to be wanting than that of either the Donors or Donees. I conclude therefore, that the great and most remarkable variation, in the whole course of college foundation, here in England, seems to be ;—its proceeding in the first instance, and because it was the first instance, and out of the course of any other, from incorporation on the fund or seat of endowment, to incorporation on the seat of what the fund or endowment was for: at first in conformity to, and then after in distinction from, other houses of religion, where the seat of endowment and place of habitation was the seat and place, *Domus seu locus venerabilis* of incorporation and society, *consortium sociorum*, &c. and all of them together included in the word *DOMUS*.

“ was then in building and pretty far advanced, prudently using this precaution in the affair, to the end that they might the more securely enjoy their Privileges, and cut off all occasion of debate; “ Whereas some other Founders [*Quere what other Founders?*] built Colleges upon the Strength of “ Papal Bulls only (of which this [C. C. C. C.] was not entirely destitute) Whose Foundations did “ not receive the Royal Confirmation for many years after, by which neglect they were subjected to “ many inconveniences”. But *Quere*, whether to more than might be expected from such their nominal foundations not being real ones? such persons and places not being founded into colleges or capacitated as such? And instead of saying some other founders, would it not have been better, to have specified any one college, either in Oxford or Cambridge, that had such papal, instead of regal, and so such illegal, instead of legal commencement? As in looking back to the foundation of every one of them, we see nothing but the direct reverse of it. We are obliged to the writer, for giving us the royal license for this foundation of C. C. C. C. 7. Nov. 16 Edw. III. 1351, and should have been somewhat pleased, had he done the same by those papal bulls he says it was not entirely destitute of, or could he have given us even the dates and occasions of them.

A later writer, in the later instance of founding All Souls college in Oxford, 1438, thus more to the point and purpose, expresses himself. “ (29). [The King’s authority was certainly sufficient “ in point of law to create a corporation; but Chichele thought it necessary, according to the “ superstition of the age, to obtain the Pope’s confirmation, 1439, on exemplification of the charter of 1438.] Note (29) to All Souls College. in Wood’s History, by Gutch, 1786. Vide Spencer’s Life of Chichele, p. 157. 1783.

BUT from these succeeding instances, to go back to the very first and only college before the statute of Mortmain, 7 E. I. 1279, and too leading an instance not to be looked up to for example, in this as well as in other particulars of college foundation and confirmation, &c. The confirmation of Merton college by the pope (Nic. III.) in 1280, (as in p. 79) was subsequent to all the charters of foundation by the king and the founder; and to all the confirmations by the metropolitan and diocesan, &c. as before taken notice of: it being not till some years after the death of the founder, (who, intent as he was upon all needful approbation and confirmation of his foundation, never seems to have desired this) that it was issued, on application of the college, in behalf of this foundation, and against all opposers of it: the same (as is therein set forth) having been before effected and perfected by Walter de Merton [the perficient founder] *de consensu tam metropolitani et diocesani, quam E. regis Anglie* [the incipient founder]. Such then was the mode and manner of the papal intervention in the very first of these instances; and this college therefore, as the very first in this and every shew of college foundation and confirmation, &c. Mr. Wood has very rightly and wisely restored to its old, proper, first and foremost rank of leader, or the leading one, in his last and most decided review of the earliest of the Oxford colleges.



V. *Of the two universities before and after their INCORPORATION: with something more of the very first and foremost of those particular BODIES of scholars now INCORPORATED, as colleges, within either of the other, the universal BODIES.*

**O**XFORD, as growing into *urbs illa frequens scholis*, seems to have proceeded from schools in houses, to schools out of them: the *urbs* or *municipium* being considered as solely comprehending the therein *universitas*, or universality of schools and scholars, till the university itself became the more distinguished and distinguishing body of the place; and so acquired to its seat, as well as to its body, the name of university. And as Cambridge, in the rudiments of it, may have not been unlike to Oxford, we may look back to both, in their growth and progression, as proceeding from conflux to association; and from association to incorporation: and, in like sort, from houses to halls, and from halls to colleges.

HALLS then in Oxford, and hostels in Cambridge, seem to have had their rise from the means used for the accommodating of scholars with lodgings. And colleges in both seem to have had their thereupon ensuing rise from the means used for the accommodating of scholars with maintenance as well as lodging: at first in *præsentî, et pro tempore*; and then a little after in perpetuity and succession. Neither do the halls in general, and under their regulated course of becoming such, appear, for any great length of time, to have preceded the colleges: the great and growing conversion of houses into halls being but from the great and growing increase of scholars, and from the orders and regulations for their being properly accommodated with and by them, in both these great seats and marts of learning. ab anno 1231. 15 Henr. III.

AND thus without going further back than to the time of this king, we may contemplate the universities in the beginning of his reign, (like Leyden, &c. at this time) as made up of townsmen's houses, with scholars living in them, and having only meeting places for publick lectures and exercises: And then further on in his reign, as having many of these houses converting into halls and hostels for scholars more commodiously and advantageously innning and communing together, under

H h

their



their several teachers and conductors, in these greater schools of literature and advancement: And then again in the close of this same reign, as in the way to be formed into, and having formed in them, such noble colleges as the present, by what Walter de Merton, in the last ten years of it was so very laudably effecting. This threefold distinction of houses, however, as arising and proceeding in the universities but in the thirteenth century, seems quite premature as carried back to the ninth: The *aulæ universitatis* not very well betokening the *locæ incorporationis* of particular bodies of scholars in either of them, at a time when even the scholars thereof in general are far from clearly known to have been incorporated as a university; or even estimated as a college, as they for some time were before any one of such interior bodies was so denominated in particular.

AND to see the import of the word COLLEGIUM, as in time and sort applied to either the scholars or the schools in general of our *general studies*——To the Oxford instance from Mr. Wood, in 1274, as in p. 25 of this paper, may be added in regard to Cambridge: 1. what Dr. Robert Richardson, 1781, says, in *Archæologia* vol. vii. 1785, p. 25. “At this period of fixing the rate of Cambridge lodgings, &c. in 1231, the society of scholars had no charter, and no name, unless perhaps it had assumed the name of COLLEGIUM”. And 2. the grant of 1318, in bulla papæ Johannis XXII. ad petitionem regis Edwardi II. “ut in prædicto loco Cantabrigie sit studium generale——quodque COLLEGIUM magistrorum et scholarium universitas sit censenda”. And then by reason of the secession of the scholars from Oxford to Stanford in 1334, it still continues amongst the oaths for Oxford degrees——“Item tu jurabis, quod non leges vel audies Stanfordiæ, tanquam in universitate, studio, vel COLLEGIO generali.”

BUT as here come to the time of the particular bodies of scholars being incorporated in the universities, and with what names of incorporation.——In looking to the original of these interior bodies now distinguished by the name of colleges; it has in the last preceding IVth supplementary division been more particularly seen that they had that name at first but in common with such other houses of religion, &c. either in or out of the universities, as had been rendered *collegiate* by incorporation; and that instead of being incorporated by their now acquired name of college, they were at first incorporated by the general and religious one then in use for all incorporated houses deemed religious, viz. DOMUS: after that by the more local and distinguishing one of AULA: and then lastly (St. Mary Winton being the first in Oxford, and King's the first in Cambridge) by the no less corporate and expressive, than since appropriate, one of COLLEGIUM.

MERTON then, as the first House of the first denomination, may be a little looked at in the name of it, as though taken from the religious houses in general, specifically proceeding from Merton to Maldon, and from Maldon to Oxford. And not to leave it without its proper distinction, in such its course and progression, the word



word *Domus* as thus in its way to the last and from the first of these places, is seen to intend and include a House or Company of scholars in the university, Oxon vel alibi, for the more advantage of them embodied with some brethren ministering and administering to and for them in *Domo et territorio suo*, on their endowment or fund of foundation, out of the university: and then finally, and at the last of these places, it is seen to intend, the same House, or Company of scholars in the university, for their still more advantage, embodied with the brethren ministering and administering to and for them in it. And so at first, there was a House of scholars, or Scholars-house, though not *the* House of Scholars, in the university: but at length, the Scholars-house was made *the* House of Scholars, in the university.

NAMED, however, as it was, from the religious houses, it was a House, no more in the rise, than in the continuance of it auspicious to other houses of that name: those who entered into religion, as the professed therein, being from the very first, and in every charter excluded from it. It was a House for neither monks nor friars, but as at the first for the exclusion, so in the end for the extirpation of them: its very ministers being in it but as *capellani*, or *clerici seculares*. Though therefore, as growing out of houses deemed religious, and as formed in itself for the purposes of piety, as well as of learning, *ad orandum* as well as *ad studendum*, and with proper persons appointed for both, it may in some sort be classed amongst them, yet as averse to, and alien from, all those of all the orders, who *religionis habitum assumunt*, or *intrans religionem*, &c. &c. it is in other sort to be seen, as clearly distinguished from them. And it may be further noted, that how rightly soever, colleges may be defined, to be founded, *ad orandum et studendum*, the serving God and themselves, in the way of general duty, and particular employment; yet as an after-definition, the present sense of their being, for the duty of prayer, may not the most exactly correspond with the original mode and intention of their being in some sort founded for such prayers, orisons, and masses, in particular, as were the duty of the ancient tenure in Frank-almoigne, and held effectual *pro salute animarum* of their founders and benefactors, and all belonging to them, or concerned in their foundations, &c. or any more especially appointed by them. As eleemosynary foundations therefore, they were in some sort religious in the rise of them, though differing in the species, and even adverse in quality (as above denoted) to the houses more especially called such.

AND as of these foundations (viz. colleges) in general, the last and best of the religious houses, and therefore (though formed on better principles of utility, and therein of security and stability, than the others) deducing much of their oeconomy from them; it ought to be observed, that by their freedom of study and inquiry, and as more emancipated, and thence, as well as from other difference of institution, more instructed and enlightened than those of the religious orders, they in time prevailed to their exclusion, and their own reformation; so of Merton-college (in this, as in other wise the example to the others) it is more particularly to be remembered,



membered, that the great and illustrious author of it (who himself in administration had so nobly withstood the papal pretences and encroachments in this kingdom) to preserve it, as in its establishment, secular, and in that respect a House of scholars only, founded it with express provision, that *no religious* i. e. no monastic, monk or friar, &c. should be maintained in it. And it was not a whole century after, that Wicliffe arose from this foundation, to carry on the work, which now appears, by God's providence from the very first to have been intended in it.

IN regard to its numbers, *fit numerus scolarium juxta quantitatem bonorum Domus ipsius* was the no less liberal, than forecasting, rule of the charter of 1274. And the terms used in it, as well as in the *ordinata* of 1276, are expressive of a large company, and adapted to a still greater, as *numero cuilibet vicinario, singulis vicenariis &c.* the founder from his own further munificence, no less than *ex pia largitione fidelium*, looking forward to a further increase of the then twenties, all on the one and only plan of his own institution; and without any such heterogenous admixture as time and contingency have now at length, most extraordinarily, ingrafted on it. Decrease however, instead of increase, in course of time, succeeded; and this *tam celebre collegium* (so famous for its old, and happy constitution,) this so complete and uniform a college of so prime and sole, though so munificent a founder, *maiorum suorum senio confractum, &c. &c. &c.* is now become, in point of what it was, and was statutely (1) intended to be, (with all respect to the still very respectable state of it, be it noticed,) a very different, and differently affected, institution.

THE founder left in it, as by the pope's bull of 1280, (issued on application and information of the society,) no less than forty fellows, and four ministers of the Altar. And besides these latter, the complete number of fellows, as by the injunction of archbishop Chichele, in 1425, about 150 years after the death of the founder, was forty four. And it was near 100 years after, that archbishop Warham objected to warden Rawlins the breach of this injunction, in not completing that (since still more decreased) number. The college, therefore, for its first century, was not, as now, a less amongst greater, but a greater among less; and indeed almost equal, in this respect of fellows and chaplains, to all other the five secular colleges, founded in the university of Oxford, within that time, conjunctly; and so, and in such sort, making nearly one half of the secular college part of it: a circumstance which may as well account for, as be confirmed by, the greater figure this college makes in the earlier annals of this university, and in its earlier lists of chancellors, proctors, &c.

(1) IN p. 41, it is said, that the difference, which time, in respect to the sometime brethren of this college has made, is to a degree, which has quite superseded almost all that we meet with in the statutes about them. And it were no less easy to shew, how far, and to what great and undesigned degree, these statutes, so excellent in the whole frame and intent of them, for the having good scholars, together with good providers for them, have even in the scholar part of them, from the now very altered



altered state of the institution, as well as of the time of it, by reason of decrease of numbers, decrease of residence, and heterogeneous ingraftment, and other considerations, given way to relaxation, not to call it superseding.

THE number of scholars, as left open for addition by the founder, (and for which addition he made provision, as well in his will, as in his statutes,) was nearly double of the present number. And the better the scheme of oeconomy and discipline for more than two twenties, the more it might want accommodating, to make it practicable for a single twenty, and the major part of them not always in their House of congregation at a time. And it cannot but be at once conspicuous, that a seniority even of a third out of forty, is a very different thing from a seniority of two thirds out of twenty. Neither can it but be seen, that there must be an end to those distinctions in the statutes, which order selections of so many seniors from a company of supposed residents, which (from the causes as above suggested) may be inferior even to the numbers ordered to be selected out of it: And that there thus being an end of the old and original distinction of many scholars and but few masters; and the very last admitted of these scholars being now become orderers of the old institution, as well as the lecturers, &c. and in such sort the masters of the scholars of that new and ingrafted institution they may have been but just taken from; the antient discipline of the one institution could not, in that process of time and alteration there has been, but, by as needful, perhaps, as natural, transfer, give way to the new discipline of the other.

MOREOVER the ingraftment of these additional scholars is here called heterogeneous, as though of scholars, and now in the college, yet neither in it nor of it, as of either *their* or *our* founder's institution and intention, or as intended by the college on their assenting to it: Walter de Merton was far from desiring any addition, *ex pia largitione fidelium*, but on the general plan, and under the general rule, of his alone institution: increase of scholars, the same sort of scholars, on increase of income: It being no more intended, that any other, and dissimilar, House and company of scholars, should be included in this, than this adjoined to any other college; the one breaking in upon and innovating his institution as well as the other. Adverse, however, as, in these respects, the one institution may have been found to the other, yet the other alterations, as above suggested, having rendered a supply of some sort wanted, we have now only to regret, that it was not of that supplementary kind and sufficiency, which must more have effected, instead of prevented, the better and more agreeable, as well as more uniform and consistent, purposes of the original institution.

THE difference, however, as now produced, from a different institution of scholars having obtained their present degree of establishment in the college, was not perhaps so apparent, till by an after looking back upon their having obtained it. The Wyllot scholars, though from the first under the care and patronage of the college, were for nearly two centuries in a hall of their own, and with a principal and establishment as in other halls for junior and so distinguished scholars. And though, as above belonging to the college, they were no otherwise in it, than as having place in the college chapel; and thereupon, in the latter part of this time, they were made to serve as choristers in the same. And when, from the decay of their hall, and reduction of their revenue, they were, towards the beginning of the last century, compassionately taken into the college, it was as servitors to their several and individual masters, who found them tutorage and lodging, and the House not a little contributed to their commons. And till after, by the liberal and liberating mind of the society, and succeeding benefactors, they were taken out of this state of humility, they appear to have been no more thought of, as candidates for fellowships in the college, than when, as by the founder's mind and institution, there were no such interior scholars in it to be such: and therefore, than when his places, without that interior distinction and division which has since so unhappily arisen from their being such, were open, and alike so, to the whole exterior flower of this university, and without excluding that of any



other there might be in the kingdom. It was the Wyllot-places, as in the nomination of some individuals of a much reduced society, being made such as to be filled by the friends and relations of the nominating and other fellows and the then introduced tutors, &c. that made the difference in this, and in consequence, in the other parts of our constitution. But that it obtained not as at present, even so late as in the times of Bishop Bickley, and Sir Henry Savile, we see in these remembrances of their wardenships, by Dr. Asty from Mr. Wood, &c.

OF the first he relates-----" that on the earl of Leicester's recommending to him an unfit person for a fellowship, he caused a pair of scales to be brought to the place of election, and, having first read his lordship's letter, put it into one scale, and weighed the Book of our statutes against it".

AND of his immediate successor, Sir Henry Savile, in 1585, he gives this other intimation still more to the point and purpose. " Amongst his benefactions to Merton college-----the principal are to be deemed the deserving persons he took care to get chosen fellows; and the promotions he procured for them afterwards. In his first election, which consisted but of four, were Henry Cusse and Francis Mason: in the last, which consisted of seven, four of them (whereof two were afterwards bishops) were esteemed eminent: and during the whole course of his wardenship, which lasted near 36 years, he was diligent, when an election was approaching, to search both the universities for candidates that might do honour to his society. He also took as much care to place noted men in Eton college; of which, whilst he was provost, he procured six of our fellows to be elected fellows there: within the same time four of our fellows became prebendaries of Windsor, and probably by his interest; at least John Chambers was one of this number, who was also one of his fellows of Eton. This worthy friend of our warden's left 1000l. to Merton college, and made him one of his executors". This was in 1604; and till after this and Dr. Jessop's benefaction, the postmasters appear to have been but little thought of in the college elections.

AND that the instituting of these scholars of another institution, and some other undergraduates with them, was not, then, as now, in the stead of the higher and superior discipline of the old original Merton institution, some few even of the latest notices of that former discipline will shew. To pass therefore from the first to the last of the many to be met with in Mr. Wood's, as well as in a variety of other writings, to this, the above, purpose-----

THE first is from his English catalogue of the fellows under Edward III. 1330. " Simon de Bredon who being elected at Merton college about this time, did by the severe discipline there used, become a most noted scholar".

AND the other, after many intermediate instances, and at the distance of near 300 years, is this from the Athenæ Oxon. II. 689. " Charles Gibbes chosen probationer-fellow of Merton college in 1624, where going through the severe exercise there used, (since, more especially after the restoration of K. Ch. II. much decayed) he became a most noted disputant, orator, &c." [And here note that 20 years before the restoration, the number of fellows was reduced to 24, on orders as in Injunct. Laud. 1640.]

AGAIN-----" Sir Richard Brown, by his father placed a gentleman-commoner in Christ-Church, did, from thence as soon as he was Bachelor of Arts, out of inclination to a more retired life, and that he might more seriously apply himself to study, cast himself into the then severe discipline of Merton-college"-----being elected into it with Mr. Gibbes, and to whom he was immediate junior 1624. Sir Richard Brown's life written by himself, a MS paper which together with others here referred to, the college will have.

AND



AND to add but this one more authority-----“ *Disciplina severa Mertonensis* tot præclaros et in  
 “ omni literarum genere præstantissimos peperit, puta, Tho: Bodleium, Hen. et Thomam Savilios,  
 “ Geo. Carltonum, Joh. Chamberum, Fran. Mafonum, If. Wakum, Joh. Halesium, Theod.  
 “ Gulstonum, Joh. Earle, Ric. Brunum, Gulielmum Berkleium; ut a cæteris, tum superiorum  
 “ temporum, tum hujus ævi recensendis, abstineam, quorum omnium fama universum orbem per-  
 “ vagata est”. Tho. Smith in vita Joh. Gravii.

WHAT, and of what sort, the old and so spoken of discipline of the college was, is left to be more particularly collected from the statutes, injunctions, decrees, customs, and regulations, to be found in this most antient and approved college. That it was somewhat *severe*, we may judge, not only from the frequency of its being so called, but from the frequency of the receders from it, in, and at the end of, their year of probation, &c. as thus noticed in the college catalogues-----anno probationis-----ante finitum annum probationis-----tantum probationarius-----nondum admissus in societatem-----adhuc baccalaureus-----ante completam regentiam-----sponte reliquit Domum-----and sometimes-----impetrata venia adivit aliam. Neither is the college without an instance of a further year of trial being refused to a probationer, even upon proposal of it *by* the patron, *to* the college. And that in arts (to say nothing of the exercises, &c. in the superior faculties) the discipline was somewhat *lasting*, we have likewise notice in the decrees made, and oaths formed upon them, that, in this education of the adopted, the bachelor elected, whatever were his standing in any college, &c. was to rank only, as a determining bachelor of the year of his admission to his fellowship in this; he being sworn *non incipere*, before such determiner, by the statutes of the university (as well for some time after, as before, the last completion of them, in 1636) and without any grace or favour might; nor, in any sort, to solicit the warden for his license *in facultate artium* till three years after his admission, as fellow. After this, he was obliged to continue exercises in arts, &c. for two years longer, even to the end of his regency; and till which was completed, he was not to go into orders, without the most proper and special leave, nor to be absent from chapel, even on any common and ordinary day, but upon other than his own discretion.

AND hereupon it hardly need to be observed, that from the state of other alteration which, from the other causes, the college is now in, there could not but be an alteration in this respect. And yet as every thing of this sort is gradual, the time of remembrance is not yet gone by of there being other remains of the ancient usages in this college than are now, except in its registers, &c. to be found in it.

DIVERSIFIED, however, in its one and only institution, as this first and original college has, in these ways, and in these days, now at length, very naturally, and perhaps very necessarily, become: yet such has been the lasting effect of the wisdom and liberality of its excellent founder, in leaving it so widely open to merit, as he has done, and in neither determining the profession of the elected, nor otherwise unnecessarily obliging them; as to have hitherto insured such candidates, and such a choice of them, as, to the honour of him and his foundation, have to this day maintained the noted character it has ever had of a college *viris in omni disciplina accurate doctis abundans*; and of a college to be preferred, *cum ob severitatem morum, tum ob studiorum libertatem*: as variously and very candidly said of it by very eminent persons of other the most learned and estimable societies.



LONG, and concluded, as the above note may now appear to be, yet in respect to what precedes in it of the ancient discipline and exercises of this college, it may not perhaps be amiss to subjoin, that our present Merton-variations (the first of the college-customs still in use as in Mr. Pointer's account of them 1749,) are, in the present apprehension of them, the remains of those superior, more solemn, and publick, exercises in arts, for which, this House, as well as for its exercises in divinity, and the other faculties, has been so famous: The variator and variation, in like apprehension, taking name from his varying first from Aristotle, as the school-authority, and whom he opposes as such; and then from himself, in submitting to him and siding with him, on finding him from those who answer for him deservedly to be such.

IN respect to the proceeding, he opens it with a general proloquium *in favour* of a fair and free inquiry, and of all the worthy past and present favourers of it within and without these walls; and *against* all ipse dixit's in philosophy, and Aristotle's more especially; and in support of this so professed a disclaiming him, and to shew the evil of submitting to such restraints, he proceeds to three of his positions, and in three distinct oppositions maintains the contrary to him. To each of these one of the three deans respectively replies, complimenting the egregious variator as a truly great man, but still asserting Aristotle as the greater, and this as well in answer to the syllogistick arguments as the set discourses. The variator then, from the light thus thrown upon the Stagirite by the deans, in a kind of epilogue, palinodiam canit, submits himself and makes it up with Aristotle: at the same time complimenting the warden and company as such good philosophers, and good disciples of the Grecian sage: in a house of science, through ages, "noted for the famous men it bred, and still "maintaining its ancient character": This exercise being now very ingeniously and entertainingly performed, and, though with all due respect to philosophy, with more perhaps of a pleasant and philological turn in it than heretofore.

THE fellows, on admission, were, in times of stricter discipline sworn, and since, as the times became more liberal and polite, admonished and engaged, upon their truth and reputation, to perform in their proper turns this very creditable, and, in a present and prospective as well as retrospective view, very well intended Merton exercise; and of which there are some specimens in print. It was formerly attended by the vice-chancellor and proctors, heads of houses and other visitants; but at so great an expence to the variator, who most sumptuously entertained them and the society, as to have made it long performed in a less publick manner. And of all which see more in Mr. Pointer's account of it: and see of the words *variationes* and *variare*, as, under Scholæ Sophistarum, in Mr. Wood's History.

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AND to shew the discipline of this house in the effects of it, and for revival of the memory of those who have most profited by, and done the greatest honour to, it, some addition, by extracts from bishop Parkhurst's *Ludicra*; Dr. Humphrey's *Johannis Juelli Vita*; Sir Isaac Wake's *Rex Platonicus*; Sir Henry \* Savile's preface to *Bradwardin de Causa Dei*; Sir Nathaniel Brent in *Ultima Linea Savilii*; and from other earlier and later very dignified and dignifying authorities, has been in contemplation: And in remembrance of bishop Earle, as well as of the Place, his *Hortus Mertonensis* was wished to be appendant.

\* Sir Henry Savile was the first we know of who intended a Life of the Founder, and we only know it from his letter to Mr. Camden in *Camdeni et Aliorum Epist. Num. 174*, and not from any materials left by him.

THESE



THESE authorities, however, can now be only, as here, referred to, with the one following extract from Dr. Higges' (dean of Litchfield) *Appointment of a Librarian in Merton-college*, at length adjoined.-----"Præcipue vero illi (Bibliothecario sc.) cura sit, tum Archiva domestica, tum Acta, "si res ferat, publica, summa qua poterit industria perscrutari, et quicquid de pientissimo fundatore "nostro Gualtero de Merton, vel de Scoto, Ochamo, Bradwardino, Suisseto, Bodleio, Savilio, aliis- "que vel longe retro acti vel sequioris ævi custodibus sociisve scitu dignum compererit, in adversaria "sua seponere, et domini custodis et quinque seniorum judicio prius comprobatum inter Bibliothecæ "Manuscripta recondere, ut postea vel ipse vel e succedentibus Bibliothecariis quispiam, hoc Historiam "ornandi suppellectili instructus, Eorum vitas, iusto gratoque volumine conscriptas, publici juris faciat, "feræque tradat posteritati". Not a little has been done in this way, since the death of Dr. Higges in 1659, by Mr. Wood and Dr. Asfry; and after these names, the later one of Dr. Saunders, as still further proceeding in it, is by no means in this reminding reference to be omitted: May the next and no far distant advance in it be altogether a perfecting one.



**VI. Of University and Balliol colleges in Oxford, and Peter-house in Cambridge, as not founded, nor created, nor commencing, colleges, but by a COLLEGE-INCORPORATION, subsequent, and posterior to that of Merton-college.**

**L**UCID, however, and even necessary, as we seem to see the order and progression of the two universities to be, in their advancing from inferior to superior accommodation, and so to incorporated from not incorporated schools and houses; the matter might doubtless have been still more obvious, but for some things false, and some things fallacious, in the preferers of remoter darkness to more recent light. Of the some things false, as here and before intended, some further notice may still be taken in that which is to follow.

AND amongst the fallacies here more particularly in view, the foremost is the confounding instead of distinguishing the terms they are misusing—the very word *university*, for instance, as in, or not in use, for a general study:—and, as at one time, signifying only the scholars of the place; at another, the scholars as incorporated, and become a body in it; and so the place itself a university, as the seat of them.—the word *collegium*, as, at one time, applied to the scholars in general, and to corporations in general; and, at another, more especially confined to those interior bodies of scholars, and that particular sort of corporation, of which the universities, as general bodies, now, for the most part, consist:—the word *domus* as variously, a house of religion, and a house of learning, and a house of both; and as a house of learning, either a hall or a college; and moreover, as the latter, the particular sort of house, as instituted by each particular founder, and founding by that name.—the word *aula*, as at one time, a private house or tenement inhabited by scholars; at another, a like sort of house, but more confined to them; at another, a more enlarged house, and totally confined to scholars; and then a corporate house, or college of incorporated scholars; and then after all, as still in Oxford, an antient and improved house of learning, with college-like accommodation, (but on a lesser scale) of chapel, hall, and library, and superior lodgings for the



the principal, as well as inferior for the scholars; and though neither incorporated nor endowed as a college, in some sort endowed with exhibitions, and incorporated into the university. (1)

NOW, had these and such like words, and their appertaining words of founding, endowing, incorporating, making, creating, erecting, &c. been at all times confined to the proper use and distinction of them, in their proper sort and season, it might have tended not only to a less deviating from the surer road of record and reality, into the darker and more delusive regions of romantic inconsistency; but have prevented even prejudice and partiality from giving to any college an earlier commencement than its creation; wherever it had either its scholars or its site; its collegiate body, or collegiate house from, when by incorporation made collegiate.

SUPPOSING it then to be known, that there was no such an incorporation of scholars, as is now intended by a college, till the latter part of the thirteenth century, the very pretence of a college founded in the ninth, must proceed, in part at least, in a misapplication and confusion of the terms of such college-foundation. As University-college, however, though far perhaps from being the first founded in that later period, will now stand as founded by king Alfred in the earlier; the colleges it has outgone in law, may at least be excused in looking, as they can, to the grounds of its so, and only so, as it is thought, outgoing them.

(1) BROUGHT forward, however, as halls of this last description may seem, towards becoming colleges; and as two such out of the seven, as in p. 44 of this paper, have by incorporation, &c. of them, since been made: it is from that alone they *can* or *do* commence as colleges, or date their foundation, as by the alone constituting charters thereof. And in respect to what is there, (in p. 44,) noted from Dr. Langbaine, in answer to Dr. Fuller, it may, in looking back from these remaining halls, to the earlier time of the first college in Cambridge, be somewhat more seriously added; If Cambridge was of no less note for scholars and scholarship, at that time, than Oxford, what imports the statute, if such there be, in the institution of Peter-house, *De mittendis Scholaribus ad Oxoniam pro doctrina*? It being moreover to be remembered, that Simon de Montacute, the giver of the oldest statutes now in Peter-house, had himself been a student in the university of Oxford. Or how came it to pass, that in the writs, in use in the reign of Edward I. Oxford University was required to send *quatuor vel quinque doctores*, and Cambridge only *duos vel tres*, to attend the parliaments? and agreeably to which, the one is seen actually to have deputed four, and the other only two, Civilians, to the parliament held at Lincoln, Ann. 1301. 29 Ed. I. Carte's Hist. Vol. ii. p. 28. Prynne's Records, III. 384. For as the judges still attend, not indeed for debate and suffrage, but to be heard, as called upon in matter of their law, so, to the same end, the universities were to send doctors, to be advised with, on occasion, in theirs. In points, for instance, of commerce with other nations, &c. &c.

THAT both these places were very considerable seats of learning, at and about the earliest time of founding colleges in them, these and other the genuine and authentick records of this country do very sufficiently shew: and they do therewith most probably (and it may be most certainly) shew, which of them was then the more advanced and considerable in that respect.



ON more attention then, to what before, in p. 50 of this paper, is added from Mr. Gough; "In a trial in Westminster-hall, Alfred was said by one side to have founded University-college; and this, which was nothing to the dispute, being allowed by the other party, it is now said to be fixed";—it rather seems to originate from lord Mansfield's reference to the subsequent cause of appeal before lord chancellor Hardwicke, Trin. 1740, [as to be seen under Title Colleges in Burn's Ecclesiastical Law.] than from what preceded, in the great and leading one of *Cockman versus Mather*, on election to the mastership in 1722 (2), and of which so great, so variously great, and differencing, a cause, (as not only affecting the college in point of its antiquity, but respecting it in its founder, visitor, and then immediate master; and this by a claim for the crown, on the one side, and for this great university, by its delegates on the other.) there is no law-report, except I. Barnardiston, in B. R. Pasch. 13 Geo. I. as to the one particular, of the court's not admitting general history to be given on that one of the issues of it, *Whether King Alfred was the founder?*—And from this, as well as from the cause's proceeding by immediate petition of appeal, from the then acting visitors, to the king, in right of his crown, as succeeding to Alfred, set forth in the same as the real founder, (as to be seen in the Annals of this Univ. Coll. by Mr. Smith p. 311, &c.) it should seem, that the king, in the end, came in as visitor, on more shew of law for him, than for the visitors he was opposed to: king Alfred, as the then acknowledged, long and devoutly acknowledged, and quasi founder in possession, [but see the Annals p. 242, &c.] we are to conclude, being more upheld, than disproved, the founder; and the ground the acting visitors stood on, not being shewn to be such as the law could uphold them on. Taking the matter, however, as it stands out of the law, it will be difficult to persuade any fair and competent judge of the evidence, as now before him, that king Alfred either was, or in fact, and in the present sense of the words college, and university, even could be, the founder of what is now called University-college. Neither Mr. Wood, Mr. Smith, nor Dr. Richard Newton, could be so persuaded; the two last of these, who were living at and after the trial, being alike persuaded of the contrary as the first before it. And after these, and what they have all so attentively advanced in this way, there ought perhaps to be some allowance for those who, with still added attention, seem to see, it could not commence as a college from that king, or otherwise than four hundred years after, by the means and bequest of William of Durham: nothing since Mr. Wood, and before the trial, nor any case during the trial, [see the Annals p. 343, &c.] nor any thing since the trial, in opposition to Mr. Smith, &c. having been held out to the public, to alter, or even detract from this persuasion. And it is believed to be policy, in the friends of the decision, in silence to enjoy it, as they have done, and without giving way to any extrajudicial agitation about it.

(2) SEE the Introduction or Preliminary State of the Case to-----The Proceedings of the Visitors of University-College with Regard to the late disputed Election of a Master Vindicated. [by one of them, viz. Dr. Richard Newton, the then principal of the Hall by him afterwards founded into Hertford-College] 2d Edition. Folio. Oxford Theatre, 1723.



FAR therefore from dis-respecting the decision, it is thought to be visible in the very history of the college, and the circumstances, &c. of its foundation, and visitation, &c. even as given by Mr. Wood and Mr. Smith, that the decision *in law* of the above cause would be as it was: yet this, without rendering it *in fact* credible, that k. Alfred was really, and in the present meaning of the words, the founder of this college. By what management and manoeuvres, variations and accommodations, and under what a succession of masters, as master Wytton, master T. Key, master Obadiah Walker, master Charlet, and more than all, that most excellent master who succeeded Dr. Charlet;—the matter grew up to this issue, is to be seen on recourse to those more than ordinary investigators of it before mentioned.

AND to all the least attentive to what they have said of the matter, there must of necessity be a difficulty in conceiving of the great and public University hall or halls of king Alfred, in 872, (supposing them real instead of fictitious) being, first and for a long time quite lost and dissolved in all the scholars, buildings and revenues thereof, and then at once restored into the present University college, by the purchase of some private tenement, or tenements, in 1332, &c. and subsequently called University hall, or halls, for distinction sake, and from an appellation of the otherwise endowed and appointed scholars they were bought for; and all this without any the least remaining old endowment, or adduced authority, to sanction the restoration: the college, as well in its site as in its scholars, and endowment, being perfectly new (3).

AND then, strange and alien as this is from the whole general course of college foundation, another very great and inexplicable difficulty presents itself; and without any thing like it in the two universities: and it is, that William of Durham should be the restorer of king Alfred's college, by banishing his name from it, and having the restorer's put in his stead: the community being called by that of William

(3) THE passage here to be extracted, is from so known a writer as Sir *John Spelman*; and his intention, after giving Ross's well known account of the institution of schools and halls in Oxford, by king Alfred, seems to have been, very much to explain, and confirm, instead of very much to expose and refute it, by the following very notable addition.

“ BY this we may see, that *Ælfred* was the First Founder of the very University itself. *First*, by his own Act, in the three Halls that he built; which being the first only Colleges that the University can truly be said to have had at that time, bear name with Relation to the University, viz. *The Greater, Lesser, and Little-Hall of the University*: as if beside them there were no other. So that *Ælfred* was not only Founder of the University, but first Author also of the Name *University* that ever we read used in that sense. *Secondly*, he was by Example, Founder of all that was after built in Imitation of his Work. And we judge that when (by his Example) other Halls and Schools were after built by others, and, according to the use of later times, at last incorporate into Societies by several Names of Halls or Colleges, under the Government of several Heads or



William of Durham, as on their common seal, *Sigillum commune Sclolarium Magistri Willielmi de Dunelm. Studentium Oxon.*, and that of king Alfred not being found amongst them, from the day of their becoming the community of William of Durham, to the time of the famous, some have thought infamous, French petition to k. Richard the Second, perhaps a hundred years after.

AN evidence, moreover, in itself so notably inconsistent, as of necessity to have led to the making king Alfred not the founder, but only restorer the first, of this college, and so to have degraded its real founder, to be only restorer the second. In the course of time, however, and since Mr. Wood's time, occasion presented itself and as a more material one, for restoring the king as the founder, and so of accommodating the matter, by giving to William of Durham *his* place of primary restorer.

"Masters, these three first Halls being likewise founded into one College, did still, in Memory of what they were at first, retain the Name of *University-College*, because they alone had once been all the University.-----Sir John Spelman's Life of K. Ælfred, published by T. Hearne, 1709.-----p. 188.

HERE indeed we see king *Alfred* building colleges, and calling them halls, though halls were before colleges in the after-accounts of both: and yet colleges not known by the name of halls, till after the foundation of some of the colleges. But what is more than this, king Alfred is made to call them *Aulas Universitatis*, though the latter of these two words was not in use, in the here intention of it, (even according to Mr. *Hearne* himself, in p. 178,) for some centuries after king *Alfred*.

THIS his Life by Sir *John Spelman*, before its publication by Mr. *Hearne*, was thought worthy of being translated into *Latin*: and *Obadiab Walker*, the master of University-college, who had it so published in 1678, and given perhaps, as it since has been, to the anniversary commemorator there, to form his speech upon, occurs the very first of the *Oxford* writers, alive at Mr. *Wood's* death, in 1695, in the later Edition of the *Athenæ Oxonienses*, in 1721. In which, of the Notes added by Mr. *Walker* to this translation, Mr. *Wood* says, "In the Notes he endeavours to make K. *Alfred* Founder of his "Coll. but altogether mistaken".

TWENTY years, indeed, before Mr. *Wood* died, he much to his own inconvenience and the derangement of his works, as well as against his long and strong imbibed prejudices, became decided against king *Alfred's* being the founder of this college; and at that time thought, as to be seen in his MS. of giving it but the next place after *Balliol* in the order of colleges: and indeed, on attributing the foundation of it to *William of Durham*, there certainly wants evidence, as well in what he, as Mr. *Smith*, has produced, in shew of an incorporation, till some considerable time after the year 1280; a deficiency, as it should seem, rather unfavourable on the side of the university, and their pretensions, if there were a real non-ability to ascertain the time or mode even of that foundation, on which they assumed so very various, and non-consistent, a right of visitation. But even supposing it a college at that time, there can be no doubt, in those who are convinced that it was not one before that time, of Mr. *Wood's* being right in placing *Merton-college*, as he at length has done, before it. See before Note (2) in p. 113.



WE attribute it much, therefore, to the credit of Mr. Wood, that *the general persuasions he had been carried away with*, did not prevent him, in the course of time and attention, from seeing, (and yet he must have been a very bad and a most blindly bigoted Oxford antiquary in all his time, and employment, and opportunity, not to have seen) that there was falsity in the French petition, and in almost every thing contained in it: and that there was falsity as to be seen in the folly of a private and purchased house of the fourteenth century, being restored, and without either a scholar, or a shilling of prior endowment, belonging to it, as a great and public college of the ninth: and that, false and inconsistent as this was in itself, there was an increasing and never ceasing falsity in what, with no small variety and inconsistency of paintings, and inscriptions, sculptures, commemorations and orations and other ingenious devices, succeeded in support of it, and of which see more in Mr. Smith and Mr. Wood, as well as in the college since their time.

BUT to see the latter's sentiments of this *Aula Magna*, more particularly than in the account of *University-college*, as in the late printed part of his MS. in 1786, recourse may be had to what occurs of king Alfred's Halls, &c. by Rofs, &c. in the yet unprinted and preceding part of it. "But as to this *Aula Magna*, that it was not erected by K. Alfred, or that there was an ancient place of learning on its site, I have these reasons: 1. That none of the society, or other clerks, as successors to K. Alfred's scholars, lived there before the time of Edw. III. 2. That before that time, all the present site of the said Hall or College was part of the Town, and had upon it more than ten Tenements belonging to Burghers or Burgeffes of Oxford; of which ten, half (as I conceive) looked towards the High Street, (where now the College-front stands) and as many towards Kybold Street, where the college walks are. 3. That the first of these tenements that were purchased with the money of Mr. William of Durham, in order to make a Fabric to receive his Exhibitioners or Scholars, was not till 4 [6] Edw. III. Dom. 1330, [1332] as also in the sixth year of that King's reign; and therefore if there had been any fabric made, and ground taken in by K. Alfred, for a College for 26 Theologifts, 'twould have remained for the use of scholars still, or at least some memory thereof would have been made in the University Registers, or College Evidences, or Domesday Book, and no need had there been to have purchased that, which before was their own. Besides, 'tis not likely that that great Monarch would have confined those Theologifts to one Tenement, or have built his Fabric on so small a place as the site of the college now is, seeing (as we may presume) that he might have made choice of what land he pleased, and gave them as much as the site of any Abbey or Religious place erected in Oxford since the conquest, which is far more than the Site of this College."

HE then proceeds to shew the falsity of this being called by K. Alfred, as in Rouse, and for the reason by him assigned, *Aula Magna Universitatis*, and his two other



other Halls, the Minor & Parva; whereas the three university halls were all of much later growth and derivation, as there made known, in like manner as by Mr. Smith, and but with little variation.

BUT admitting the Aula Magna, or any other of the three university halls, to have been one of the three supposed halls, and endowed halls, of king Alfred, (which, upon the best and strictest inquiry, and by the best and strictest inquirers, and most distinctly and most impartially made, no one of them is found to be) it is not to be conceived, from any information now before us, but that in the dead and transmuted state of successive private property, in which, after so great an interval, it was purchased for William of Durham's scholars, and became their mansion, it, as in that state, and in consequence of their de novo incorporation and endowment, and induction in it, and by another founder, became *their* college, and of that foundation: there being an entire dissolution of the former house, as far as it was a college, and an entire new foundation in the college it was converted to. Or in other wise of expression, whatever was the earlier state of Durham, Selverne, or Spicer-hall, before it became such, i. e. a hall of private property, in the time of Henry III. and with continuance in that state, till on purchase by William of Durham's scholars, it was made their seat early in the reign of Edward III:—whether it had been an earlier college or not, it seems in all that time in such sort a hall, as distinct from a college, as not to *become* a college, but by a fresh college, intending a new incorporation of scholars, being placed in it: such its then old walls, how collegiate soever formerly, seeming no more capable of incorporating or making a college of William of Durham's new scholars, than William of Durham's new scholars, without his estates, as in perpetuity by succession invested in them by new incorporation, of making a college of those old walls.

AND in this state of the place, it is not to be overlooked, that from the time of this tenement's emerging out of total darkness and obscurity, under Andrew of Durham, temp. Henr. III. to the time of its becoming the house of the scholars of Master William of Durham, temp. Edw. III. there is neither the least appearance, nor even the likelihood, of evidence, to excite the belief of one shilling of revenue or endowment belonging to it, or to any scholars having place in it, prior to those of William of Durham. And the like is avouchable of those other tenements, the other university halls.

BALLIOL-college, it has been said, has now no part of its original endowment; [out of Oxford perhaps and Quære whether even so far right?] but then for certain, wherever that went, it did not go from the house, but adhered to it, in some sort or other, till such other was obtained for it, as prevented its dissolution. The very house, or place of habitation and incorporation, was neither evacuated, relinquished, parted with, or exposed to frequent sale, &c. nor the body sometime incorporated and collected in it, long since dissolved and defunct in all the members of it, and  
without



without all kind of sustenance for any one of them: Whereas, on the supposal of such a college of king Alfred, and in such supposed situation, (the which can hardly be supposed) there was so total a dissolution and extinction of it, in all the parts and particulars of it, as a college, when, and before, its site was purchased for another site, of another college, of other scholars, founded by another founder, and whose sustenance being wholly other than that of king Alfred's scholars, could be no more restored to them, than they to it; and which site its new proprietors might have resorted to, or not, as it should have happened, as no more to admit of University-college being king Alfred's college, by such restoration, than the later college of St. John, by Sir Thomas White, the earlier one of St. Bernard, by archbishop Chichele, by a much less extraordinary restoration. And therefore, though from the nature of the thing, and the history of the place, we give not the least credit to University-college's having had its original from the great hall, or either of the other halls of the university, in the time of king Alfred, or indeed to the university's having any such halls, at that time of the ninth century, as should exceed so much in scholars, and fall short so much in room for them, as these, the so much after assigned ones, must be seen to have done: we could not, even upon the certainty of its being the very site of such very college, the more accord to its being an earlier college, than, by William of Durham's settled and chartered endowment, it was *de novo* made one, successive and incorporated in perpetuity.

MOREOVER, there is a delusion and confusion, as before observed upon, in the ad libitum assorting and timing the words, Aulas universitatis, as may be most commodious for the making of a college of them.

FROM the whole of the matter therefore, as hitherto disclosed to us, it seems to be collected, that the university's claim to the right of visiting this college, however long, in some sort, or shape, or other, exercised by them, was not such, in any sort such, as could be supported in law, against the claim for the crown, on the part of the then, and long reputed founder, king Alfred. But then there appearing a time when he was not reputed so, as well as a time when, and how, he came to be reputed so; it has induced the judges of fact, though not of law, to disallow him for the founder. Indeed the whole of the case for king Alfred, in Mr. Smith of this college's apprehension of it, was such, and so full of frauds, forgeries, and fictions, as in his letter to Dr. Charlet, of July 8, 1715, to extort from him this too strong, and very wrong, conclusion of it.—“I am sick of such lyes, &c. the bane of true history, and when pleaded for, almost enough to justify a Thief in the disbelief of the gospel.”

YET surely, if he would be serious about what was so little seriously to be believed, it would have been a better conclusion, and more to his purpose, to have noticed, that as celestial truth, remaining unadulterated, must and will bear the test of ages, (and the more enlightened the better)—so nothing but truth can support itself against a right and well informed inquiry—and such good, and fair, and well informed inquirers, as he and Mr. Wood, and apart from each other, in this instance, have been.



IN regard to Balliol-college, however it acquired the precedence, its own evidences, in word and date, prove it to be of posterior and later perpetuation, foundation, and creation, than Merton. We will therefore only attend to the two following authorities respecting it, as wanting any sort of explanation.

Inter Rerum Anglicarum Scriptores Veteres, Tom. I. Oxon. MDC. LXXXIV.  
Opera Gul. Fulman.

241. CHRONICA DE MAILROS. 1269. Henric. 3. R.

*Collegium Balliolens. Oxon.* “ §. Obiit Johannes de Balliolo (4). Hic amator  
“ Scholarium fecit propter Deum perpetuam  
“ domum apud Oxoniam, tribuens singulis ex illis scholaribus omni hebdomada  
“ VIII. denarios ad communem eorum mensam.”

“ §. Est ibi alia domus Scholarium melior illa, qui percipiunt ad communiam  
“ suam XII. denarios per circulum Septimanæ, de dono Episcopi Bathensis.”

Lectori. III. “ Sequuntur Chronica de Mailros, Inchoata, ut fert Inscriptio,  
“ per Abbatem de Dundrainad, ab Ann. D.CC.XXXV.  
“ [p. 135]. Continuata per varios ad Annum Domini M.CC.LXX. [p. 244].  
“ Quis ille fuerit Abbas, vel quinam alii Continuatores, non satis liquet. Mailrosense  
“ vero Monasterium, &c.” [ut ibi]. p. 223. “ Ab Anno vero M.CC.LXII.  
“ novam telam orditur Monachus quidam satis ineptus Melrosensis, qui Simonis de  
“ Monteforti turbulenti istius Comitis Leycestrensis, Encomium instituisse videtur:  
“ quod cum p. 240. explicit, cetera fortasse ab alia manu fuerint.”

AND thus, after Mr. Fulman, says bishop Nicolson, in his English Historical Library, pp. 62, 63. “ From the year 1262, the Continuator (whoever had the  
“ Turn to be Register at that time) is as dull and whimsical as any Monk  
“ needs be.” But we must have a very different opinion of him indeed, to take him for a more competent witness of the Balliol foundation, than the foundress her-

(4) MISCELLANEA quædam, Briani Twyni, de Antiquis Aulis, &c. ad calcem Apologiæ Ejus, anno 1608 editæ.

*Parochia S. Mariæ Magdalens. Collegium Balliolense.*

De illius fundacione, Rogerus Walden, historicus satis antiquus, sic habet. Anno Dom. 1269 obiit Joannes de Balliolo, qui amator scholarium fecit propter Deum perpetuam domum apud Oxoniam, tribuens singulis illis scholaribus omni hebdomada octo denarios ad communem eorum mensam. Est ibi alia domus scholarium melior illa ubi percipiunt ad communia summam duodecim denariorum per circulum septimanæ de dono Episcopi Bathensis. (Roffensem intelligit Mertonensis Collegii fundatorem) hæc Rogerus.

self,



self, as witnessing in and by her charters of foundation. Not, therefore, to renounce all right and reason in our judgement, we must either understand him, in his ambiguity, according to her, or else most assuredly reject him, as far as he may be inconsistent with her. And in this mode of construction we may seem to give him credit, just thus far and no further. That John of Balliol died in 1269, and [of his will and intention, as carried, or about to be carried, into execution by his lady, &c. he] perpetuated the house or hall of the scholars of Balliol (5). If the chronicler was not to this degree informed, it is very clear, that he was not enough, nor rightly, informed: and there is almost more than presumption in the very words referred to, that this part of the chronicle was not written in 1269, nor till somewhat on in the reign of the next succeeding king, Edward the First. Indeed, upon the whole, there is reason to conclude, that it was not written till after Balliol-college, as well as Merton-college, was really perpetuated; the very word *perpetuam* seeming to import as much; and Walter de Merton not being Episc. *Roffensis* (a word very liable to be varied as here in MS.) till after the completion of *his* college; the only better one then in Oxford, when Balliol was perpetuated; and yet the commons of which better one may not have been extended from the chartered allowance of 50s. a year, to 1s. a week, for each scholar, till after such perpetuation of the other.

THE other authority, but for the name of its author, should not seem to need noticing, to persons in any degree qualified to be judges on this occasion. It is in Mr. Twyne's saying, he had seen in Balliol-college archives, Chartam quandam annum gerentem 1264, and then immediately after mistaking the presumed date of its foundation from Balliol's decease in 1269, for 1266. Briani Twyni. Miscellanea. *Parochia S. Mariæ Magdalene. Balliolense Collegium.* This surely is a very lose and unsatisfactory information, respecting what he was holding out to another college, [not to Merton but to Peter-house] as an evidence of priority. Bishop Wren was much more expressive, though less so than was wanted, in what was denoted by him, as, *Charta Regia data Custodi et Scholaribus Domus S. Petri 15<sup>o</sup> Maii, 2<sup>o</sup> Edw. I;* and which, after all, as we have seen [in pp. 27, 28, of this paper] clearly belonged to the next reign of Edw. II. Mr. Twyne himself had seen and transcribed, and, what is worse, after that had given credit to, an infamous evidence, (as *instrumentum quod mentiri nescit*) in University-college archives, respecting the receipt and disposal of William of Durham's bequest to the university, about thirty years before his death, and their concern in it. And in Merton-college archives, (as in the said Miscellanea. *Parochia S. Johannis Baptiste. Collegium Mertonense;* and where it is that he notices and mistakes as above) he had seen and concluded, too unwarily concluded, from statutes of our founder, actually bearing

(5) See in Balliofergus pp. 17, 25, the very words of her grant for *the perpetuation* of the House of Balliol; and which bearing date but in 1284, is both evidence and acknowledgment, that there was no Balliol-college foundation nor commencement before it.



date in 1267, which nevertheless, as we have likewise seen, in p. 33, &c. of this paper, could not have a being till some seven years after. And the instances are too many, not only of his not correcting others in their wrong, but, for added and other errors, his greatly needing correction himself. And of which, but not from his printed collections, a very especial and complicated specimen is given by Mr. Smith, in his *Annals of Univ. coll.* 1728, pp. 369, 370. Of this Balliol writing, (6) therefore, as thus enough pointed out, to be matter of inquiry to those subsequent and professed inquirers into the evidences of this foundation, Dr. Savage and Mr. Wood, and with such use and investigation of the Balliol archives as was peculiar to them, it hardly seems too much to infer, that as neither of them has in the least noticed it, so Mr. Twyne was in some sort or other mistaken in it, and that whatever this writing was, it neither was, nor could be, so material to, nor according with, the true history of this foundation, as may seem by him in this sort suggested; nor such as to make it matter of regret even to the college, that, as it never was before produced, it never was again producible.

AND now in respect to Cambridge:—(to revert to what has before been said in bar of giving to any college an earlier commencement than its creation, wherever it had either its scholars, or its site; its collegiate body, or collegiate house from)—Had it been always seen, as surely, but for some strange confounding and perverting prejudice, it always might, that no such college as any of our present colleges, could commence, or come into existence, or be in any way made, or created, as a college, but by the one and only means of college-making, creating, commencing, and completing, viz. incorporation and endowment; the college of St. John would hardly have been so far confounded and compounded with the other, and other sort of, eleemosynary foundation, of that name, which preceded and made way for it, as to have had the age of the one computed from the pre-existence of the other. Neither in respect to that other college, as now in other sort understood to be derived from this old hospital, viz. Peter-house; would its scholars, *whereforever*, and *howforever*, and *how long soever*, before accommodated, have been supposed to have had existence, and consequently commencement, as a college, till in the only way of college-making, and creating, as above, they were made and created, and had beginning, and completion, as a college, in 1284.

(6) THE earliest in Balliofergus, is that with the date 1269; being a mere bond to the executors of John de Balliol for ten marks for two horses. After this, I think, there are no other till 1282 and 1284. And Mr. Wood does not allow of his exhibiting to any scholars till 1268, or 1267 at least: but whenever it was, it neither made a college of the scholars so exhibited to, nor of the house or hall in which they were exhibited to; nor could Balliol-college possibly commence or begin, but from the time of its subsequent creation and perpetuation, as such. Let therefore *any* judge of these evidences compare them, with what is here before produced of the Merton ones; and then pronounce, if he can, Balliol to be the prior and first founded or created, as well as the *preceding*, college.

BUT



BUT though it is before said, *wherefore*, and *howfore*, and *how long so ever*, the Peter-house Scholars were before accommodated: in respect to the first, Mr. Baker, (who, in his printed preface to bishop Fisher's sermon, has abundantly intimated, *all* the common accounts of this foundation to be full of mistake. Pref. p. LV.) has put it past a doubt, that it was in the hospital of St. John, and not in the two old hotels without Trumpington gates, by the church of St. Peter; and which, with that church, he has (in his MS. History of this old house, pp. 7, 8, 9,) ascertained to have belonged to the hospital, from before the time of their pretended but merely hotel-accommodation with lodgings and places of study, till the church and houses were together given up to them, on their accorded leaving their hospital-accommodation, for their college-accommodation, and commencement, in 1284.

AND then for those other and very different houses, (though sometimes confounded with the above) those, it is intended, which the Fratres de pœnitentia, &c. were fixed in, so early as 1257, and had for their habitation, in and after 2 Edw. I. 1274, it was not till 2 Edw. II. 1309, that Peter-house had their concern in them, as see in the patent of that date, in pp. 27, 28, of this paper.

IN respect, however, to the time and sort of the before accommodation of the scholars in the hospital; not to recede from all pretensions to priority, by the such with-holding of the Peter-house site from the Peter-house scholars, and the Peter-house scholars from the Peter-house site, till each became such, by disjunction from the hospital, and incorporation in the college, in 1284; Mr. Baker looks back to the scholars in the hospital, as no less early than 1257, it may be, with more than place provided in it, by Hugh de Balsbam, on his coming to the patronage of it: and then thereupon looks back to them, as so, and in such sort, a college, even prior to their hospital-establishment in 1280; their college-one not being till 1284.

BUT then, as foreseeing, it should seem, that it could hardly be acceded to, that there could be endowment in perpetuity, college-endowment, without establishment that could make it such, he, with his wonted modesty and moderation, so far, (so entirely indeed) concedes the point, as by adding, "If this be not allowed, I have nothing more to say; for it is evident, from the King's License, the original whereof is amongst our Archives, that their first legal settlement here was no antienter than the ninth of Edward the First, 1280." MS. Hist. as above, p. 11.

AND then, as before and without this, scholars having either place, or place and maintenance within an hospital, could no more make a college of it, than they could be made a college, by such their location and situation in it; so even after,



and under this authority for ingrafting, these scholars could in no otherwise be considered, as even a part of a college, than the hospital, as the body they were incorporated or rather ingrafted into, might be deemed one.

THERE is in the *Sceletos Cantabrigienfis* of 1622, a particular notice and description, (but of no known time and authority) of some *Augustine brethren* brought into the said hospital, as the proper and roomy place for such brethren, by Hugh de Northwold (the then bishop of Ely,) circ. 1240; the same, though brethren, Augustine and secular brethren, and not scholars, being said to be, *non tam precibus quam literis Academicis vacantes*; not so addicted to the purposes of this their own religious house and fraternity, as to those of the seat of learning, in which it was seated.

THIS is quite passed over by Mr. Baker, as an evidence neither known in itself, nor any way falling in with his other and much more authentic authorities: and without recourse to them, we may at once presume Mr. Baker to be no less informed, nor less to be attended to, in his own peculiar province of old St. John's house and college, than he allows Mr. Parker to have been, in his of Caius college. Thomæ Caii vindiciæ Pref. p. LV. Letter from Mr. Baker to Mr. Hearne. Cambridge, the 26<sup>th</sup> of Oct. 1729. "Parker you may safely trust in what concerns his "own college."

THERE is, moreover, in the Register *Montacute*, sub anno 1340, fol. 17, an entry (as in p. 25 of this paper in part extracted) much more perspicuous, and better understood, at the time of making it, than now, when time has given a different turn to the understanding of the terms of *unum corpus, et unum collegium, &c. &c.* as then and there made use of; an entry respecting the scholars in their hospital-state, before, and till, they were advanced, as in 1284, to their Peter-house, or college-state.

AND to give these scholars, then and thus removed, by Hugh de Balsbam, from the hospital, an earlier place and establishment in it, than had ever before been given them, Mr. Bentham, in his history of the church of Ely, 1771. p. 147. (though with no more adherence, it is apprehended, to the unknown, and therefore exceptionable, authority, deduced by him from the *Sceletos*, of so low a date as 1622, than to the other great and decisive originals and enrolments of 1280, and 1284,) first *supposes* them the brethren, as above; and then, as if the brethren were *proved* the scholars, speaks of them, and by that name, (the name of scholars,) so early as 1240, by Hugh de Northwold, not only placed in the hospital, but *incorporated* with its former members (7). But then how, and in what sort and sense

(7) AND, as to this is subjoined in the there note 4, "So Parker in his *Sceletos Cantabr.* MS Coll. "Caius-Gonvil. p. 35." Without any such SO appearing in the copies printed from this manuscript; should



sense *incorporated with them*, by what and what sort of charter, and with what and what sort of endowment, remains to be demonstrated by other, and more certain, and consistent evidence, than the private and unknown, and yet after all not adhered to, one, of *Augustine brethren*, as in the *Sceletos*; and the obscure, and not rightly understood or applied one of *incorporated scholars*, as in the register.

YET supposing it even substantiated, instead of only thus singularly, and against all other apprehension and appearance, assumed and suggested, that the scholars in the hospital were of Hugh de Northwold's placing there: yet were they in any mode of being there *so incorporated*, as to be, become, or commence, a college, or any part of one, till their ever acknowledged, and ever to be acknowledged, founder, Hugh de Balsam, made them such? (8)

THEY might be scholars *in* the hospital, without being, or before they were, scholars *of* it: and as scholars of it, they were scholars of a hospital, and not of a college. When taken into Peter-house, from the older house of St. John, they then indeed became members, *incorporated* members, of a one *Domus*, a new created one as a college, and were quite out of that relation, whatever it was, which they before had to that other older and other sort of *Domus*, as an hospital.

IN such sort therefore as Hugh de Balsam, under the king's license of 1280, united the scholars and brethren; in such sort, and under such authority, in 1284, (these two parts being heterogeneous, and not coalescing and agreeing) *dictum corpus* [so divided in itself] *divisi*: making a college, the very first in Cambridge, and formed on the model of the very first in Oxford, (as in after appropriation of the word college) of the first part; and leaving, as he found, the other part, an hospital, and no otherwise a college (9) than (as in the then more open and general use of the word) it was as a *corpus corporatum*; and as it was before the Scholars made a part of it: It being neither made the other sort of college, by the scholars coming into, and being in it; nor ~~unmade~~ such other sort of college, by their going out of it, and forming, or being formed into, the very first which ever had being, commencement, or beginning, in that university.

should not the difference, if there be any, and whether added or original (for Mr. Baker in p. 89 of his before-mentioned MS. History intimates one addition in another hand) have been otherwise noticed, than by SO referring to a manuscript, printed on purpose to preclude the need of it?

(8) SEE, (as before referred to in p. 26) the preamble to their Statutes, by Simon de Montacute, in 1344: the college-commemoration (1639)----and the late proceedings in the King's Bench in Easter Term 1788, the *King* against the Bishop of *Ely*, as in the Term Reports, Vol. ii. p. 290, &c.

(9) " IF in an hospital the master and poor are incorporated, it is a college having a common seal to act by, although it hath not the name of a college (which always supposes a corporation) because it is of an inferior degree". Lord *Holt's* Argument in delivering his judgement in the case of *Philips* against *Bury*.

AND



AND therefore, as against St. John's college being reputed the first college, as *locally* erected on the ruins of St. John's hospital, and endowed with the site and estate of it: it may be enough to say, that instead of commencing as a college with it, it could but so have commenced from it, and in the stead of it: so against Peter-house as the first college, on its *personal*, or scholar-deduction from that older house: it seems a full refutation, to remember its distinction from the hospital, as a college: and that as the latter, it originated from the collegiately collecting [or taking for incorporation] the scholars from and out of the hospital, where they were less familiar and at home, into a house that was quite scholastic and appropriate to them: and not from the placing and sustaining, or even the establishing them, in the hospital, which in every state of their being in it, as well as after their being taken out of it, remained an hospital. See before pp. 22, 23, 24, 25, 26, 27, 28.





VII. Of Merton-hall in Cambridge—a more summary intimation of it; as, of old, and at this time, in the possession of Merton-college.

**T**HAT old and remarkable place in Cambridge, often, though for no now-known reason, called Pythagoras's School, but more antiently Merton Hall, as, with its whole estate, annexed to Merton College, by Walter de Merton, in 1269-70, was still earlier distinguished, and doubtless in a more entire state of it, as *Domus Lapidea*, or the Stone House of its possessors. It moreover appears, from the Inquis. f. temp. Edw. I. that, from the Conquest to its coming to the College, it had for its possessors persons of the name or ancestry of Dunning.

AND to one of these, Hervey Fitz-Eustace, the grandfather of the Dunning who passed it to the College, there was, in consideration of a grant from him to the Master and Brethren of the Hospital of St. John the Evangelist in Cambridge, of land for ever out of this his Stone House estate, a grant from them to him and his heirs of infirmary-beds for ever within *their* the hospital Stone House in return. The first of these grants is recited in the second; and as there was the difference of public and private as well in these houses as in the occupying proprietors of the same, so there appears a perpetual relief in the one of them to the Dunnings, who were then, and for some time after, the occupying proprietors of the other: and in regard to those who followed them in that possession, the way in which this hospital and infirmary grant presents itself, is as making one among the deeds of the appendages and additions, of different kinds, in different ways, at different times, in different places, from different persons, and by different Dunnings, acquired to this their Cambridge capital messuage and estate, and all, therewith, as parts of the whole, conveyed to the College by Richard (Fitz-Eustace—Fitz-Hervey—Fitz-Eustace) the last possessing, and first un-possessing, Dunning: the same being done at the whole expence of the sole and munificent founder of that very extraordinary College it was then conveyed to; and of whom it may be here noted, that he was, at this same time, elsewhere providing for the infirm of his house of scholars in Oxford.

AND upon this very infirmary-evidence, though to the entire reversing it, and setting it up in opposition not only to itself, but to the whole title in general, which exhibits no other proprietor of this antient and capital stone mansion but the



Dunnings, and no other conveyance of it but to the College, "this very stone mansion, by the name of Pythagoras's School, and, upon the assumption, as it should seem, of its being the one and only stone house, was said to be *really the infirmary to St. John's hostel*: And it so passing into British Topography, vol. I. p. 210, a very early opportunity presented itself of endeavouring to set this matter right, by giving some account of the evidence it was, though quite to the reverse of it, advanced upon: and therewith, from the general evidence, some sort of suggestion, that each and every aim at conjecture, on the ideal ground of this building being a public one, might be vain and illusive, as far as that evidence, and the total want of all contra-memorial from the time denoted in that evidence, might fairly infer it to be only a private one: and as the most of what was then communicated has been too undeservedly honoured with a place in the late costly edition of Mr. Camden's Britannia, it is hoped this further explanation may be the easier and earlier admitted, in addition to the notices by others of this very respectable work, as already inserted in the Gentleman's Magazine of the year 1790; and therewith the following variations, as seeming to be more especially wanted in vol. II. inferior and latter end of p. 134:

For "successions," read secessions.

For "Thence," with a great T and a full-stop before it, read " , than," with a little t, and only a comma before it.

And in p. 135,

For "charters," read charts,—as used by Mr. Wood for antient deeds and scripts of all sorts.

The other establishment of a chaplain from amongst the religious of the hospital, to celebrate within the same for the Dunnings, as in p. 135, was by and through the provision of Eustace (the son of the preceding Hervey, and father of the succeeding Richard), after he came to the inheritance of this the family mansion, manor-house, and estate.

AND of the other religious house, in or about Cambridge, with which the Dunnings had concernment, viz. the priory of Barnwell; it may perhaps be worth noticing on this occasion, that there is in the History of this Priory, p. 69, an extract from the return of the possessions of it by a jury of the townsmen of Cambridge, 3 Edw. I. in these words: "The said canons have also, by the gift of *Dunigg*, [Dunnig], great-grandfather of Hervey Dunigg, and Maud his wife, fifty acres of land in the fields on the other side of the bridge."—And this grant from this Dunning to the priory not only takes us further back than some distinct grants, in the College treasury, of some distinct and different messuages, &c. from the priory to



to Hervey Fitz-Eustace, and to Eustace Fitz-Hervey, Dunning, his descendants, but, moreover, seems to intimate, that, as precedent to, so it might, in some degree at least, be productive of them.

THE old and general Cambridge account, that *Edward IV. took this old manor-house and estate from King's College there, and gave it to Merton College, Oxford*, is far from being less materially misleading than the very novel one before mentioned, that in time past, and before it belonged to either of these two most famous colleges, it was the infirmary to *St. John's hostel*.

ON the founding of that magnificent one in Cambridge by Henry VI. Merton College in Oxford were, by great importunity, prevailed with to convey to the king's pleasure, 24 Henry VI. 1446, and upon his license, this part of their original endowment, styled *Cantabrigia cum membris*, being this old manor-house and manor, &c. &c. &c. in exchange for his manor of Margaret Stratton in Wiltshire; yet with a proviso of reversion to the said college, in case of disturbance in their new possession. So that when, by the acts of resumption made some time after in this king's reign, all the lands which had been given away by patent (and this manor of Stratton amongst the rest), were re-invested in the Crown; the College put in their plea for the recovery of their former estate, and, after some trouble and charge, obtained it by due course of law: King's College finally releasing and quitting all claim to it, 16 January, 3 Edw. IV. 1463, as by the evidences of proceedings of the aforesaid exchange and recovery in the treasury, and a note (from which the most of this after relation is worded) in the library of Merton college.

AND in conclusion it may be added, that though what is here said may fully suffice for the addition in the *Britannia* respecting this place, and more than suffice for a *Gentleman's Magazine*; yet the gentlemen of the College, it is respectfully hoped, will not disdain a more particular information, as well of what is known of this their Cambridge Merton Hall, since it has been entitled to that name, as of the whole that is found material of it whilst it had the older appellation of the Stone House of the Dunnings.

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IT may be here noticed that, to obviate the misinformation and error respecting this Hall, which had been admitted into two such works as the *British Topography* 1780, and the *Britannia* 1789, this paper was some years since inserted in the *Gentleman's Magazine* without any name; and drew after it a letter of other sort, and which, as otherwise addressed and intended, should not have been published at all, and much less, as it was, with a name annexed to it.







CORRECTIONS AND ADDITIONS.

**P**AGE 9. note. *After* In that earlier publication of views by Samuel and Nathaniel Buck, there is a South West one of this place, taken in 1730, on a larger scale than this by Mr. Grose in 1777, and more corresponding with Mr. West's design, *add*, And with these therefore here likewise presented.

Page 12. Of St. Giles's church in Cambridge as Picot's, and of his little canonry in Cambridge, as at that church founded, see the evidences in the History of Barnwell Abbey [Priory] 1786.

Page 14. note, line 9. *After* differ from, *add*, the first of: *and to the note add*, In aid, however, of these descriptions, see the plates. In the plate of the plan with seals, it is to be seen, that the lower room, from the form and size of the apertures, cannot be a light one; and that it is a room (if so to be called as standing above ground, and notwithstanding the gloom, &c. of it) with a vaulted roof, circ. ten feet from the ground to the top of the arches, all regularly intersected as in the plan: the same being upwards of sixty feet long, and more than twenty feet wide; the pillars in the middle, and the half-pillars at the ends and sides, so dividing the whole, as to form it into twelve equal compartments, of about ten feet every way. The windows are to the South; the only door to the North; and there are no stairs but on the outside on the East, at the N. E. corner.

P. 25. note. In respect to bishop Kilkenney's benefaction, it might, for distinguishing Barnwell from Cambridge, have been added, that however Barnwell may be included in Cambridge, as a Cambridge-parish, in later histories and notices of each by Carter, Blomefield, &c. it is by Dr. Caius, in his account of the priory, said to be *extra burgum*. And then, not only as so being, it may be taken to be *extra universitatem*; but from the very terms of this benefaction, as occurring in placit. 14 Edw. I. and from the prior and canons of Barnwell not being found, as the friars on their being seated in Cambridge, *in studiis associati*, &c. with the scholars thereof.

Ibid. *After* See the history of this place [Barnwell Abbey, 1786] pp. 53, 71. *Add*, and appendix p. 23.

P. 26. n. l. 20. It may be here noted, that instead of house or college, it should be house or hall: *domus sive aula*, being the constant style of that college in its oldest statutes, viz. those of Simon de Montacute, in 1344. And it may be further noted,



on what immediately follows, that it has since in formal process, in *Banco Regis*, Easter Term, 1788, The KING against The Bishop of ELY, been so set forth, as, on such occasion, it was before presumed it would, that the college of St. Peter in Cambridge was founded by Hugh de Balsam, anno 1284. Term Reports; vol. ii. p. 290.

P. 28. n. l. 7 from the bottom. After the one, add, of these.

P. 30. n. l. 4. Instead of p. 319. read pp. 181, 319. And further on, in this note, after St. John's college, add, as in Mr. Baker's MS. History of this House, &c. p. 16. But of Bede's House, as the Beadsmen's House in appendage to the Round Church of St. Sepulchre, &c. See in Mr. Gough's Additions to Camden, 1789, vol. i. p. 135. And of the other Stone-houses very near to this, given to the said priory of Barnwell in 1276, by Master Robert de Fulburn, a great benefactor thereto, see in the History of the Priory, 1786, p. 43, & p. 68. There, in p. 68, Parker's History of Cambridge, from a MS. in the Cotton Library, is referred to: and so, and in the same words it is, in what occurs of these Houses, in Additions to Camden, vol. and page as before, i. 135. This History is more generally known by the name of Sceletos Cantabrigienfis, 1622: And the MS. in the Cotton Library is Mr. Hare's Cat. Canc. Cant. Biblioth. Cotton. Faust. C. III. Fol. 81. as printed with the said Hist. and thus referred to; it including Robert de Fulburn, the giver of these Houses, as Chancellor of Cambridge, 1276. 4 Ed. I.

P. 34. n. l. 3. After in it, insert, on the death of William of Durham, in 1249.

P. 35. n. After the paragraph ending with the word ecclesiastical, the following might have been added. It cannot but be observed, with some degree of dissatisfaction, that so early and important a grant as that attributed to king John, by Mr. Wood, under the year 1214, should be passed over by him, without any thing said of the mode of it, and without any kind of authority so much as referred to for it. See, however, in Sir John Peshall's History of the University, pp. 7, and 10, the reference thereto in Placit. coram domino Rege apud Westm. de termino S. Hilarii, 12<sup>mo</sup> Ed. III. Oxon. 33. But this notwithstanding, it is more to be observed, that Sir William Blackstone, after speaking of University-Courts in general, as long enjoying an exclusive though limited jurisdiction, &c. for the redress of civil injuries, &c. adds, "but as to England in particular, the oldest charter that I have seen, containing "this grant to the university of Oxford, was 28 Hen. III. A. D. 1244." And to judge from this grant, as not without a *quamdiu nobis placuerit*, on the one side; and an accord (under other seals, than, and as it should seem for want of, a common and corporation one) that the privileges then and thus granted *non cedant in suum aut heredum suorum prejudicium*, on the other, the scholars, side: and from a like grant being in consequence obtained for the scholars of the university of Cambridge, though not till 33 Ed. I. 1305; nor then without this his conclusion of his Letters patent for it, *In cujus, &c. pro nostre libito voluntatis durantes*: and from the whole tenor



tenor of what we have before and after this, respecting the universities: there seems no room to think, that there was any thing very effectual in this way till the first of these two grants: or that either of the universities was much advanced in civil privileges (notwithstanding any usual and formal general retrospect to the concessions of their predecessors by succeeding princes, &c.) before this great and greatly leading grant to the chancellor and university of the students in Oxford, 28 Henr. III. 1244; and who thereupon, by other added privileges, soon became much more civilly capacitated than they till then had been.

P. 36. l. 15. *After* might, *add*, or might not.

Ibid. l. 23. *Add*, As see distinguished in Italics, in Mr. Gutch's late publication of it, in 1786, p. 3.

Ibid. to note (9) l. 3. *Add*, and to which, in the mention of this place, he is referring.

P. 38. n. l. 19. *After* refounded, *add*, or founded anew.

P. 39. n. line the last. *For* the, *read*, that most famous.

P. 40. n. l. 11. *After* Charter of 1264, *add*, See the Licenses in pp. 51, 52.

Ibid. n. l. 17. *For* very, *insert* more.

Ibid. n. l. 24. *After* thren, *expunge* the semicolon, and *add*, in maneriis ministrantes;

P. 43. n. at the end of line 6, *add*, See p. 54.

Ibid. n. l. 19. *After* feeling, *add*, and finding.

Ibid. n. l. 21. *After* dated, *add*, and chartered.

P. 46. l. 22. *With* Lynacre and Victoria *might* have been mentioned, John Chamber, M. D. warden of Merton, as with them joint-founder of the college of physicians in London. See of him in A. Wood, by Mr. Gutch, 1786. p. 8.

P. 47. l. 12, 13. *After* King Henry took away, *it might* have been noticed, that it was not violenter, as in Mr. Twyne's information, Apologia, 1608, p. 319.

P. 49. n. l. 33. *After* old, *add*, or of the same sort.

Ibid. in the last line. *After* effected, *add*, v. Ballioferg. pp. 17, 25.

P. 50. n. l. 11. *Instead* of an apparently hoped for and expected, *insert* a variously intended and expected.

P. 51. l. 2. *Instead* of p. 59, *read* p. 39.

Ibid. at the end of the first license. *After* Chancellor, *add* Quære.

P. 52. In regard to the college-arms, the seals of these chief and other lords, as in the plate, might have been referred to: and therewith might likewise have



have been noticed, that Mr. Burton, in his *Leicestershire*, p. 153, saith, that the arms of monasteries were generally the same with the arms of their founders, or very near them.

P. 54. l. 25. It may be here repeated, from the bottom of p. 56, That by that evidence, &c. as in p. 54, l. 22, (l. 25 it should be) is intended the whole and proper evidence of each charter, in the right and regular order and succession of it.

P. 55. n. It might have been observed of the extract from the accounts of the executors respecting the expence of the founder's tomb, as in the note (f), that it would rectify as well as point out the errors of a like extract in *Custumale Roffense*, 1788, with the inanity of the there reasoning on one of the particulars of it: and moreover that it would shew the tomb to have been erected before the making up of these accounts, in 1282. And to this note it might have been added, that by the therein mentioned bequest of the founder to the hospital, its estate was so advanced, as to be now valued at 216l. a year.

P. 56. In respect to the situation of the present monument of the founder, as there noticed, it is so variously mentioned by different writers, as *near the North wall of the church—over against the bishop's chair—on the North side of St. William's chapel*—that it may be best for those who want to know the position of it, without seeing it, to have recourse to the plan of the church, in which it is pointed out, in *Custumale Roffense*; and wherein is a plate of the monument likewise. Its materials were heretofore called Touch and Alabaster, now black and white Marble. It is said to be a good imitation of the Gothic; as raised and arched over an alabaster figure of the founder, mitred, and in his episcopal habit, laying, (and praying with his hands elevated and joined together) on an altar tomb, under the arch, supported by three somewhat clustered pillars of black Marble. The Tables are likewise of black Marble, inscribed with golden capitals. And the plate, as in these copies, added to the inscriptions, may, with these notices, be some information to those who are desirous of it. The college, as here noticed, have been very attentive in this respect, and the same is mentioned to their praise, in the *History and Antiquities of Rochester*, a pretty pocket volume, printed at Rochester in 1772, and in pp. 67, 68, 138, 139, 172, 173, of which, the founder with his college and monument, &c. is not inaptly remembered. See likewise in the *Gentleman's Magazine* for July 1783, p. 551.

P. 59. l. 1. *After* 24 of Henry III, *add*, [1240.]

P. 60. l. 2. *After* Basingstoke, *add*, under grants of protection and confirmation from the said king, in the house of the said manor,

P. 62. n. l. 13. *For* intituled, *read*, entitled.

*Ibid.* l. 22. *For* assignate, *read*, assignata.

P. 64.



- P. 64. l. 23. *For principal, read, principle.*
- P. 66. l. 1. *After John, add, the Baptift.*  
 Ibid. n. l. 12. *After John, add, the Baptift.*
- P. 68. n. l. 7. *After FOR the, add, three.*
- P. 69. n. l. 19. *After Dat. add, apud Lameth,*  
 Ibid. n. l. 20. *After Dat. add, apud Cantuariam,*
- P. 70. l. 12. *After determined for the ufage, add, Of this determination or real composition of archbifhop Warham, fee more in pp. 88, 89.*
- P. 74. l. 15. *For Geneo-, read, Genea-.*  
 Ibid. l. 37. *After and, add, it may be further noted.*
- P. 80. paragraph the firft. On further recourfe to the Ponteland evidences, it is feen, that this application of archbifhop Winchelfea did not prevail with bifhop Bek; but that the college were obliged to have recourfe to the fee of Rome: and it was not till after a fecond bull obtained from thence in their favour, that peaceable poffeffion was given to them, and an endowment of a vicarage, as in p. 89, thereupon made by the faid bifhop, anno 1303.
- P. 82. l. 16. *For attentively, read, accurately.*
- P. 90. XI. Stratton. Here, amongft the exemplifications of the other appropriations, &c. might have been noticed one by a notary public, and entitled instrumentum publicum figillo Nicholai [de Longespee as in plate V.] epifcopi Sar. signatum, anno Domini M°. CC°. nonagefimo tertio, de appropriatione ecclefie de Stratton.
- P. 96. *Add, at the end of line 21, T. Wyke.*  
 Ibid. line 3 from the bottom. *For Marton, read, Merton.*
- P. 98. *Instead of what is included in the firft parenthesis, read, (in which, for more than three hundred years, there has not been any limitation of election, but to good and meritorious fcholars, advanced to the degree of bachelor of arts, and to no higher; not in orders, nor poffeffed of any certain and better provifion of their own, than that they are here applying for; and born, moreover, in fome one or other of the diocefes containing the whole of the college territory, fuffenance, or endowment, within or amongft them.)*
- P. 101. The mention of the founder's heirs, as in this page, is from the inquiry on his death, 6 Ed. I. n. 3. in the Tower of London, and from the many therewith concurring evidences within the college.
- P. 106. At the end of line 7, *add, v. p. 85.*



Ibid. the latter end of the second paragraph. Though it is here said, The title, as prefixed, is exactly as follows;—Yet neither that, nor the subscription, is apprehended to have diphthongs in the original; as here, from later copies. And Quære, Whether they occur even in the original notices of this title and subscription, as in the next page?

P. 110. l. 20. For Aldbuny, *read*, Aldbury, or Aldbery, or Alderbury.

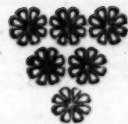
Ibid. last paragraph l. 1. For Johnson, *read*, Johnston, and note, that The King's Visitatorial Power Asserted, is the Title of his Book.

P. 113. at the end of the note (2). *Add*, See again the last paragraph of note (3) in p. 136.

P. 114. l. 27. After House of Merton, *add*, in Surrey.

P. 121. n. l. 5. For corporrtions, *read*, corporations.

P. 150. At the end of the second paragraph, *add*, And with all becoming notice of any intervening occurrences, more than ordinarily affecting this so durable, and durably noted a foundation.





In the five following PLATES, from original drawings and engravings, previously as well as purposely provided, are represented in the following order.

**T**HE private and episcopal seals of Walter de Merton. His private seal, as used before he was a bishop, is found affixed to each of the duplicates of each of his college-charters of 1264, 1270, and 1274; and to various other instruments. His episcopal seal is found affixed to the before noticed transcript of the last college-charter of 1274:—the said transcript, nevertheless, erroneously at least, bearing the too untimely date of 1267. The said seal is, as its reverse, imperfect; though completed in the print, (but with a hair-line to mark the addition) from a very perfect front-impression, without reverse, affixed to one of the founder's grants to one of his sisters, in 1276:—a year in which he had an episcopal seal, though not in 1267:—as being some seven years before he was a bishop.

II. The very fine seal of the prior and convent of Merton in Surrey, as affixed to their quit-claim to the college, of the advowson of the church of Maldon, in 1265; and the very neat seal of the prior and convent of Tortington in Suffex, as affixed to their acknowledgment to Walter de Merton, chancellor of England, of his special goodness and greatness, and without other obligation, contenting them for his advowson of the church of Farleigh, in 1262.

III. The seals of Joh. Exon. bishop of Winchester, and of the then prior and convent of Winchester, as affixed to the duplicates of the first and foundation-charter of 1264, and the triplicates of the act of appropriating to the college its churches of Maldon and Farleigh, in the same year: and the seal of Nicholas de Ely, the next bishop of Winchester, as affixed to his confirmation, in 1258, of the foregoing act of appropriation, in 1264.

IV. The seals of Richard and Gilbert de Clare, earls of Gloucester, &c. as affixed, in 1262 and 1264, and both before and after, to various acts and instruments of license and confirmation, &c. in consequence of their being the chief lords of the fees of the manors of Maldon and Farleigh, within, and as part of, their Honqr of Clare: and, together with these, the seals of William de Wateville, and Peter de Cudinton,



Cudinton, the mesne lords and possessors under the others, "as found affixed to the conveyances of these estates to Walter de Merton; ab anno 24 Henr. III. 1240. And for this their concern in these estates, these four persons are all included, as in the introductory part of the foundation-charter of 1264.

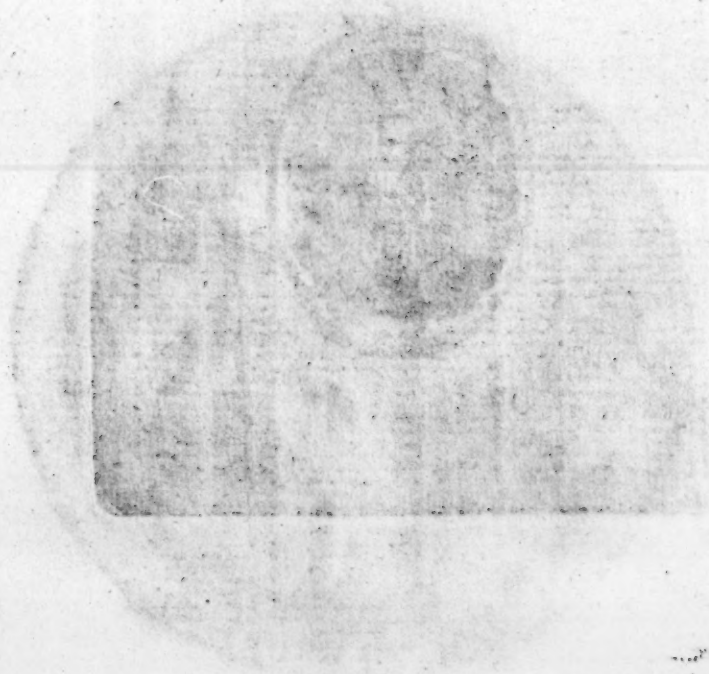
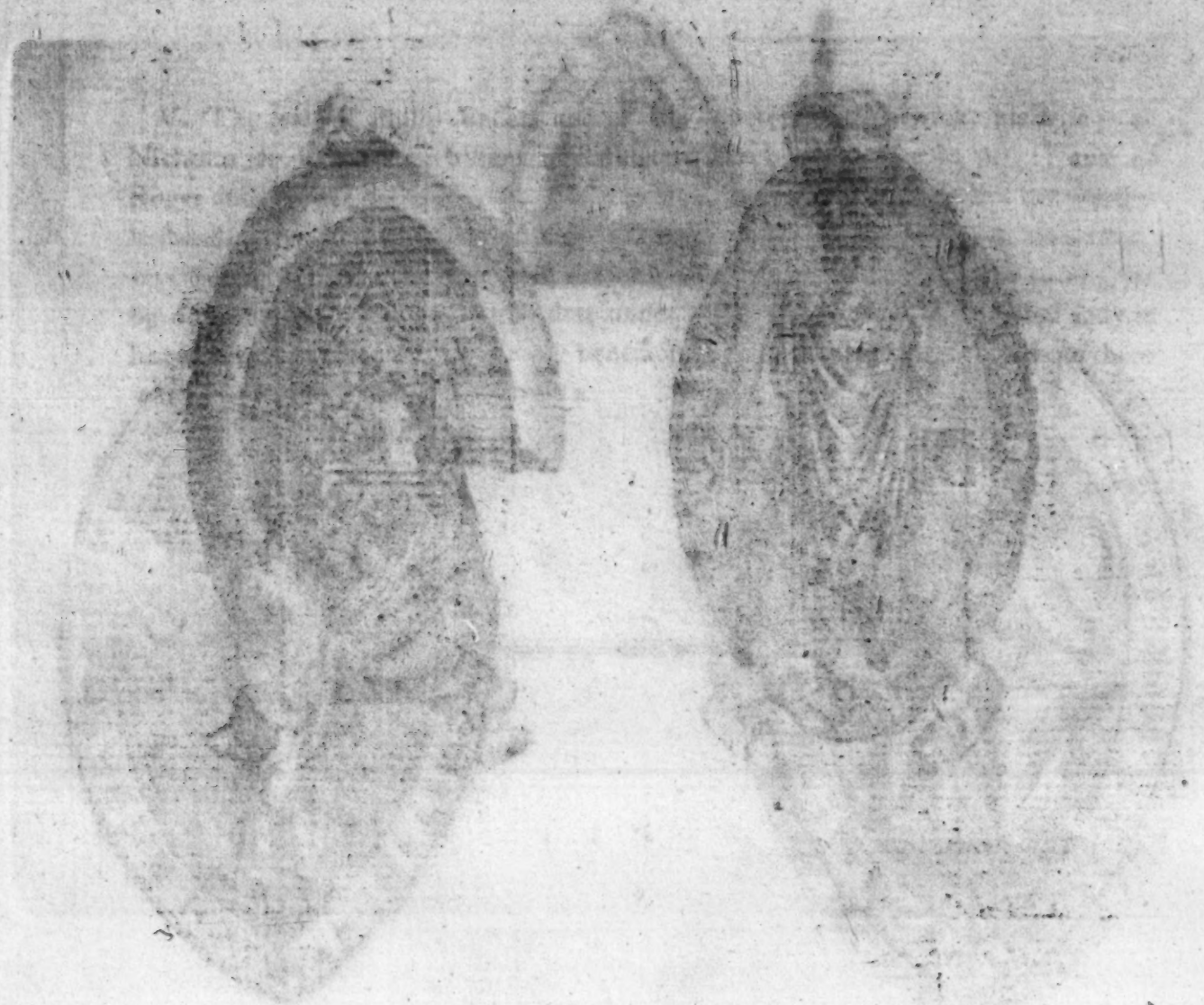
V. The seals of Philip Basset, and of Ela countess of Warwick, his wife; of Nicholas de Longespee, bishop of Salisbury, her brother, [see in p. ] and of Roger and Juliana de Leyburne. Ela comitissa, in conjunction with this her worthy husband, the last duly appointed chief justiciar, and colleague with our chancellor, was the party of whom he acquired the other Surrey estate of Ledred, in 1266; as by duplicate instruments of that date under these their seals. This noted lady is likewise remembered as a very early benefactress to this college, and for whom there was heretofore an anniversary therein.

# F I N I S.





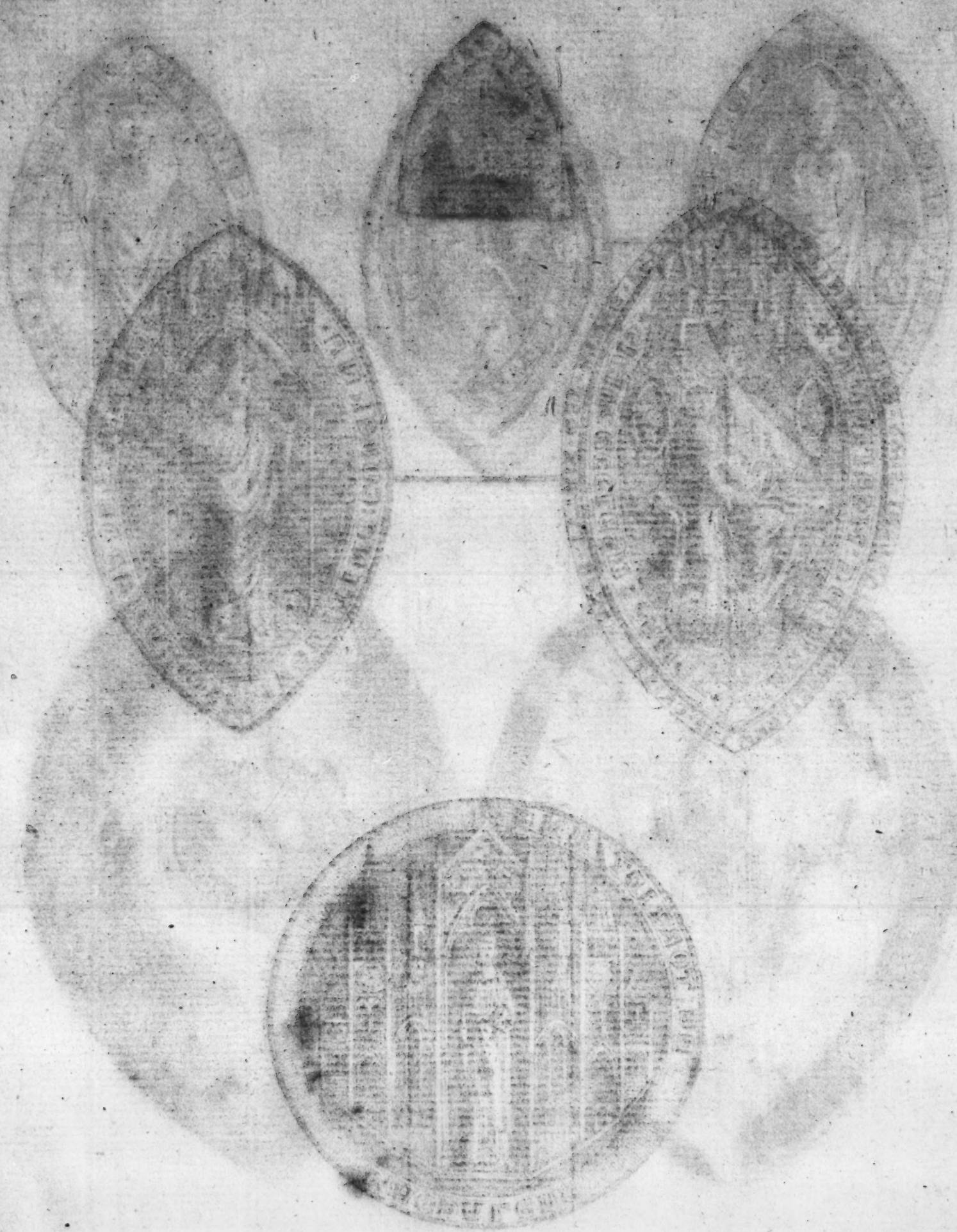
























*Patri de Cadimton*











MVSEVM  
BRITAN  
NICVM

